Calendar No. 1887

84TH CONGRESS, 2d Session | SENATE | REPT. 1865, Part 2

PROVIDING FOR PAYMENTS BY THE SECRETARY OF THE INTERIOR TO OWNERS OF NON-FEDERAL WATER-USE FACILITIES FOR HYDROELECTRIC POWER BENEFITS REALIZED BY THE UNITED STATES THEREFROM

MAY 7, 1956.—Ordered to be printed

Mr. NEUBERGER (for himself, Mr. JACKSON and Mr. O'MAHONEY as members of the Committee on Interior and Insular Affairs), submitted the following

MINORITY VIEWS

[To accompany S. 1574]

INTRODUCTION

The brief committee report on S. 1574 does not contain any analysis of the proposed application and effects of this bill. It does not attempt to spell out any reasons why enactment of this far-reaching change in our longstanding water resources law is either necessary or desirable.

This minority report in opposition to S. 1574 will therefore undertake such an analysis, so as to demonstrate the 3 basic objections to the bill, any 1 of which is so serious that alone it would be more than adequate reason for the bill's complete rejection.

(1) It is an attack on and a reversal of one of the fundamental elements of our traditional water resources policies;

(2) It constitutes a totally unnecessary subsidy for our already highly subsidized private utilities; and

(3) It would impair full development of our river resources for either flood control or power production.

S. 1574 AN ATTACK ON LONG-STANDING POLICIES

This bill in principle and effect is a direct attack on one of our best and longest established principles of water resource development. For 100 years, in the decisions of the Supreme Court and in the legislative acts of Congress, it has never been questioned that control

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over our interstate waterways was a Federal responsibility. Almost equally accepted has been the principle that the Nation's flowing streams are the common heritage of all its people.

When the great power sites on these streams became tremendously valuable with the advance of our technology, no one seriously questioned that only the elected congressional representatives of all the people could grant to a private agency the right to exploit the power there available. But should such grants be made? Did the mere existence of the power prove the virtue of the policy? There were many who doubted it, and these doubts were part of the fertile soil from which grew the strong public conservation movement early in this century. Thus a great Republican President vetoed one such act of Congress in 1909 with the words:

> To give away, without conditions, this, one of the greatest of our resources, would be an act of folly. If we are guilty of it, our children will be forced to pay an annual return upon a capitalization based upon the highest prices which "the traffic will bear." They will find themselves face to face with powerful interests intrenched behind the doctrine of "vested rights" and strengthened by every defense which money can buy and the ingenuity of able corporation lawyers can devise (James River veto message, January 15, 1909).

Similar veto messages both preceded and followed this one.

This controversy simmered and flared on many fronts and in many battles for two decades. Then, in an attempt to bring some order from the existing chaos, the 66th Congress passed the Federal Water Power Act of 1920. As one authority on the subject, William L. Grossman, of New York University, has written:

> The Federal Water Power Act grew out of the conservation movement, and the conservation movement, like so many major threads in our politicoeconomic pattern, developed largely from the work of Theodore Roosevelt.

The insight of the President who was thus the intellectual progenitor of our Federal water policies has long been recognized. Better than any national leader before his time he understood the dangers implicit in fractionalization of our river systems. In 1908, in his message transmitting to Congress the preliminary report of his Inland Waterways Commission, President Roosevelt said:

> Every stream should be used to its utmost. No stream can be so used unless such use is planned in advance. When such plans are made, we shall find that, instead of interfering, one use can often be made to assist another. Each river system, from its headwaters in the forest to its mouth on the coast, is a single unit and should be treated as such.

Similarly President Taft in his White River veto message of 1912 showed his understanding of the entire problem when he wrote:

> The lower river is being improved by a series of dams belonging to the Federal Government. This dam, situated in the upper reaches of the river, is, according to the report of the engineers, capable of becoming part of this general Fed-

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> eral improvement of navigation. To introduce a diversity of title into a series of dams which may all become eventually a part of a single improvement directed at the same end would, in my opinion, be highly objectionable.

This was the basic reasoning behind the philosophy of the Federal Water Power Act. The chairman of the Senate Committee on Commerce, Senator Wesley L. Jones, of Washington, reported the bill for Senate consideration and expressed it in these words:

> It will thus be seen that under the terms of the act the Federal Government has, through its Commission, the first right to develop any of the water powers under its jurisdiction.

The chairman went on to describe the secondary preference given development by public agencies and the third order of preference provided private licensees.

But, while providing for private licensing of hydroelectric sites by a special Government agency, this act also set stringent standards and conditions for such grants of privilege. For instance, they were to be limited to 50 years, and the projects adopted were to be "best adapted to a comprehensive plan" and required to pay the Federal Government for benefits received from Federal projects upstream.

Speaking of these conditions as the first witness in the hearings on this bill before the House Committee on Water Power, Mr. O. C. Merrill of the United States Forest Service, one of the draftsmen of the bill and later the first Executive Secretary of the Federal Power Commission, said:

> Section 10 prescribes the general conditions which shall be put in all licenses, whether on public lands or on navigable rivers.

These conditions included that of subsection 10 (f) which S. 1574 would repeal. As originally passed by the House, it read:

> the commission may in its discretion require as a condition of the license that the licensee so benefited shall reimburse the owner

of the upstream improvements. This was amended on the floor of the Senate to make the Commission's action mandatory; that is, to read:

> the commission *shall* require as a condition of the license that the licensee so benefited shall reimburse the owner.

This amendment was accepted by the conference committee and agreed to by the House without dissent, and became the present law.

Equally mandatory was the language of section 6 of the act:

> Each such license shall be conditioned upon acceptance by the licensee of all the terms and conditions of this Act and such further conditions, if any, as the commission shall prescribe in conformity with this Act * * *

No legislative language could be more explicit to state that any downstream *licensed* beneficiary should compensate the upstream development, whether licensed or Federal, which provides the benefit. And no language could more clearly imply deliberate denial by the Congress

of any intent that a downstream *Federal* project should be required to pay tribute for benefits received from any project upstream. An examination of the extensive committee hearings and floor debates on this bill fails to reveal even a single suggestion that such a provision should be included.

And this is, of course, completely logical. A private licensee is granted the right to use a great public resource for only a nominal fee and make a profit on its investment in so doing. If the people of the Nation choose to build a dam downstream it was then and should be today inconceivable that they should pay tribute to the upstream licensee merely because it was granted the use of a valuable waterpower privilege which also belongs to the Nation. This is asking the American people to pay rent on their own property.

Why Change Now?

So for 33 years the law stood unchallenged either in Congress or the Federal Power Commission. In 1955, after 35 years of operation under section 10 (f), the General Counsel of the Federal Power Commission testified that there had been exactly one case in which charges had been assessed by the Federal Power Commission and received by the United States from a licensee.

Then why the sudden urgency to repeal section 10 (f) and enact S. 1574 or its equivalent into law?

Such a provision is important to the Pacific Northwest Power Co., a combine of Pacific Power & Light Co., Montana Power Co., Portland General Electric Co. and Washington Water Power Co., in its plans to take over the development of the Columbia River. Mr. Kinsey Robinson, president of this company, frankly stated this purpose of the bill in an interview reported in the Wall Street Journal on August 24, 1954 (hearings, page 61). If this utility combine can select the choicest upstream power sites in the Columbia Basin and skim the cream off them, then it will reap a fabulous windfall if it is also empowered, by this bill, to exact tribute from each of the existing and planned Federal plants between its projects and the sea.

THE CHANGE IN FORMULA FROM SECTION 10 (F) TO S. 1574

The financial impact of S. 1574 must be analyzed by reference to the bill's changes in the statutory formula for assessing benefits, as well as its effect of making benefits payable from Federal projects to licensees at all.

Not only is this bill bad in concept and philosophy, but its language seems designed to maximize its effectiveness as an attack on the public interest. This is done by altering the formula now in section 10 (f) of the Federal Power Act. The purpose and significance of this change is strangely unexplained in the committee report.

In providing for payments to an upstream project by a downstream licensee for benefits received from stored waters, section 10 (f) of the act of 1920 now states that the measure of the payments shall be "such part of the annual charge for interest, maintenance and depreciation thereon as the Commission may deem equitable." The new phrasing in section 2 of S. 1574 is

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> such part of the fixed costs of the facility furnishing the benefit plus such part of the annual operating and maintenance costs of such facility, including land rentals and similar charges, as the Commission may deem equitable.

In place of "interest, maintenance and depreciation" we now have proposed "fixed costs * * * plus * * * operating and maintenance costs * * * including land rentals and similar charges."

What is the meaning and effect of this change? We are not told, and there was no evidence introduced in the hearings to explain it. As Senators Magnuson and Jackson said in their joint statement to the committee on June 29, 1955, "Perhaps, Mr. Chairman, the changes would not be significant. Certainly, however, this committee and the Congress ought to know before any legislation is passed." It is our feeling that the changes are significant, and that the difference is an important factor contributing to the necessity of rejection of this bill by the Congress.

THE ECONOMIC ANALYSIS

In reply to 20 questions forwarded by Senators Magnuson and Jackson, the FPC informed them that under section 10 (f), as interpreted in the past, the basis for calculating the charge for headwater benefits consisted of interest charges on investment in the upstream project at 2½ percent for Federal and 6 percent for private projects, depreciation figured on the basis of a 100-year sinking fund, and maintenance amounting to a very small part of the total annual costs. As a result, the ratio of private to Federal annual charges under the formula of section 10 (f), on equal investments, would be in the neighborhood of 2 to 1.

The change made by the new terms of S. 1574 only becomes apparent when we analyze them in the light of what they mean to the Federal Power Commission, the agency charged with their execution. To attempt this—in the absence from the record of any Commission explanation—we must turn to the FPC Bureau of Power Technical Memorandum No. 1, which explains the methods used by the FPC in determining the feasibility of Federal and private projects.

As detailed in this memorandum, the annual costs of a project consist of three separate classes: (1) Fixed charges on investment, (2) operation and maintenance, and (3) allocated administrative and general expenses. Classes (2) and (3) are comparatively minor, but the figures of class (1) are startling as they relate to the revised formula of S. 1574. For the sake of clarity of the following discussion, we quote here the two sections of this memorandum relating to the issue under discussion.

Private projects

Summary of fixed charges.—Annual fixed charges for privately financed hydroelectric projects are summarized as follows:

		Percent of investment
Cost of money		5.50
Depreciation, 5.5 percent sinking fund		.41
Interim replacements		.20
Insurance		.10
Taxes:		
Federal income	[1] 3.60	
Federal miscellaneous	.10	
State and local	[1] 2.28	
Total taxes		5.98
Total		12.19

[1] National average percentage.

Federal projects

Summary of fixed charges.—The annual fixed charges for federally financed hydroelectric projects are summarized as follows:

	Percent of investment
Interest	2.50
Amortization, 2.50 percent interest rate	1.03
Interim replacements	.20
Insurance (in lieu of)	.10
Taxes	(1)
	[1] 3.83

[1] See p. 5. When applicable an appropriate percentage for payments in lieu of State and local taxes should be included in the annual fixed charges for specific estimates.

("Cost of money" is a component of fixed charges used in the consideration of private projects, and it includes for general purposes a return on bonded debt of 3.25 percent, on preferred stock equity of 4.5 percent, and on common stock equity of 9 percent. It should be noted, however, that these rates of return are for general use; if in any actual specific case the rates of return were higher than these theoretical figures, the basis of the payments for headwater benefits received might be proportionately higher.)

In short, the effect of this bill is to make any downstream Federal project a full-fledged customer of the upstream private utility, which status includes contributing to the earnings of the private bond and shareholders at whatever their customary rate of return may be.

Add to this the inclusion, as a component of fixed costs, of the taxes paid by the upstream utility, and we find that the Federal Government would be rendered a taxpayer to an unknown and inestimable number of States, towns, and countries where it does not even own property, but where some present or future upstream developer may. To this extent S. 1574 can be described as a generalized enabling bill and a perpetual appropriations bill for permanent payments in lieu of taxes in an unknown amount to an unknown number of governmental entities.

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WHAT'S IN THE POKE?

In the absence of any authoritative interpretation of the proposed change, this is our best estimate of what the terms of this bill could mean in the future. We shall proceed to analyze the effects would result if such an estimate should prove even partially correct. But we would emphasize that there has never been any such detailed explanation from the responsible agency involved. The Congress of the United States is being asked by the Federal Power Commission and the private utilities to purchase a "pig-in-a-poke"—at least we think it's a pig.

A TWO-EDGED SWORD

Using this analysis of the meaning of the language of section 2 of S. 1574, the next question becomes: What is the effect of the proposed new formula in the two cases of primary public interest (1) where a private project is benefited by usptream Federal storage, and (2) where a Federal project is benefited by upstream private storage? We quickly discover that the provision is a two-edged sword which cuts in one case to the detriment of the Federal project and in the other to the benefit of the private project.

We refer again to the Federal Power Commission's standard figures in its analysis of private and Federal hydroelectric projects cited above, and note that the annual fixed costs of a private hydro project total 12.19 percent of investment, while the annual fixed costs of a Federal project total 3.83 percent. (In the exceptional instance when, by special enabling legislation, a Federal project makes payments in lieu of local taxes, these payments may add a minor percentage to the Federal fixed costs.)

When, under the proposed formula, operation and maintenance and allocated administrative and general expenses are added to these annual fixed costs of Federal and licensed projects, the ratio of private to Federal costs is found to be approximately 3 to 1, as against 2 to 1 under the present section 10 (f), as explained by the FPC in answer to the questions of Senators Magnuson and Jackson.

In other words, the present formula of section 10 (f) seems to have stood unchallenged for 35 years, as long as only non-Federal projects might have to pay for benefits received from upstream development. Now that it is proposed to have the public pay its licensees for the flow of its own rivers, the formula is to be changed, without explanation, in a manner so as to increase the cost factors which form the basis of these annual charges.

"EQUITY" OR SUBSIDY?

The effect of this becomes clear. On the one hand, as under the present section 10 (f), the downstream private project of case (1) above is obligated to pay the upstream Federal projects for the benefits received at charges of about one-third of its own fixed costs for providing such storage at the upstream site. The downstream private project in effect obtains this storage at the low cost of interest of Federal credit and the Federal Government's lack of profits—a fine subsidy to the downstream private project.

On the other hand, a downstream Federal project, as in case (2) above, would pay an upstream private project for benefits received at a rate approximately three times the cost of equivalent Federal storage.

If the benefits received are substantial, the increase in the average cost of the power produced by the Federal dam could be considerable. And under S. 1574, the agency administering the Federal project has no choice but to pay the charges assessed by the FPC under the formula, and to pass them on to its consumers. The only way it could protect its power users from such a rate increase would be to refuse to use the stored upstream water and to reject the benefits from the upstream private storage project—a patently ridiculous result.

Under this bill, the rates for power from every downstream Federal dam would probably have to be raised every time a private project was built on the headwaters. It is a poorly kept secret that such a raising of the power costs at Federal projects is one of the basic objectives of the private power lobby in its campaign to remove from the national scene the competitive spur of the Federal "yardstick."

The true inequity of S. 1574 becomes apparent by assuming a combination of cases (1) and (2) above: A private company has projects both above and below Federal projects, both benefiting and being benefited by them. *If the power benefits received by the two parties are equal, the Federal Government will owe the private company just three times as much money as it is owed in return. On the other hand, if in any case the payments owed between the parties exactly cancel each other out, it will be because the private company is receiving in downstream benefits three times as much hydropower as it is providing in downstream benefits at the Federal project.* This is the artifice of the unseen "sleeper" in this bill.

It has been much argued that the purpose of this bill is to establish equity between the governmental and the private developers of our river resources, that it should be passed "in simple equity." Analysis shows that rather than "simple equity", what S. 1574 would provide would be outright subsidy.

CONSERVATION OF OUR RIVER RESOURCES

S. 1574 would be another step toward fulfillment of the new "partnership" power policy which would impair the possibility of full development of the nation's hydroelectric resources.

Many of the best dam sites left on our major rivers today are upstream sites in deep canyons, in which large storage reservoirs could add maximum flood control as well as power benefits by evening out the seasonal flow of these rivers at the dam site as well as through the turbines of downstream projects.

The comparative fixed cost analysis of feasibility used by the Federal Power Commission, set out earlier in this minority report, clearly shows why only Federal development of these great, multipurpose upstream sites can completely utilize the full resources of a major river system such as, for example, that of the Columbia River Basin. Yet anything less than maximum feasible development is a tragic economic waste.

After 50 years of nonpartisan acceptance of the conservation policies initiated under President Theodore Roosevelt, such tragic waste is now being not only permitted but actively encouraged under the

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Eisenhower administration. At some of the finest upstream water storage sites left in our country, private utilities find it feasible, even with their high fixed costs, to construct small projects which partially develop the flow of the river. The outstanding example of this, of course, is the proposed private development of the Hells Canyon stretch of the Middle Snake River between Idaho and Oregon, where private dams backed by this administration will throw away nearly 3 million acre-feet of storage, to provide flood control and 400,000 kilowatts of prime power, which would be feasible under low-cost Federal development.

By giving private upstream projects a payment, based on their high fixed costs, from downstream Federal projects, S. 1574 is designed to make feasible private construction of upstream projects which are possible only if some storage capacity is to be included. Even this subsidy, however, will not wholly overcome the higher costs of private development and thus will not make feasible maximum development of the river's potential. By encouraging partial development, S. 1574 will contribute to the construction of dams which will forever foreclose full development.

Conclusion

We think that this country is quite kind enough in its treatment of its private utilities without this additional bonanza. A brief survey of the situation as it affects the power companies presently using water power to produce electricity will demonstrate this.

(1) The utilities receive the use of the site and the falling water almost as a gift from the people of the United States. If this is not a substantial profitmaking arrangement, it is difficult to understand why the private companies spend millions of dollars a year propagandizing and lobbying against any except the highest cost, most infeasible Federal river development projects.

(2) Under the accelerated tax amortization program, these utilities then receive directly from the Nation's taxpayers a subsidy which, with compound interest, often has a total value more than equal to the investment in the project.

(3) Then, under rates set by the State agencies and the Federal Power Commission these companies receive from their consumers an amount adequate to cover depreciation of the cost of the project during its theoretical life, plus a very substantial rate of return on their entire investment, including, as mentioned above, the part paid for by the taxpayers under the accelerated amortization program.

We think this is enough. In order to take advantage of the three profit opportunities listed above it is necessary for licensees to build up head and store water behind some kind of dam. We believe this bill is designed to present private utilities with the additional windfall of a payment from downstream Federal projects which may receive benefits incidental to this fact. We submit that this is carrying the utilities' own private "welfare state" far beyond any reasonable limits of governmental generosity.

(4) Far from being a minor and belated rectification of a statutory flaw, S. 1574 would negate a long-held and central premise of our national water resources policy, and it must be judged in this larger context. As a proposal to facilitate private construction of upstream storage projects, the bill is one more link in the Eisenhower admin-

istration's effort to parcel out our great river systems piecemeal under the disguise of the "partnership" slogan.

The effect of such fractionalization would be serious underdevelopment. It is essential that Congress not lose sight of this overall issue of national policy in the consideration of separate bills, which may be presented individually as innocuous and technical "corrections" of legal inequities. This is particularly important today, in the light of the continuing attacks on established conservation policies, attacks which can only result in incomplete development of our only perpetually renewable energy resource.

For these reasons, S. 1574 should never be enacted into law.

HENRY M. JACKSON.
JOSEPH C. O'MAHONEY.
RICHARD L. NEUBERGER.

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Calendar No. 1888

84TH CONGRESS, 2d Session | SENATE | REPORT No. 1866

EXTENDING FOR 2 YEARS THE ADVISORY COMMITTEE ON WEATHER CONTROL

APRIL 26, 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 2913]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 2913) to extend for 2 years the Advisory Committee on Weather Control, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to continue for 2 years (to June 30, 1958) the act to create a committee to study and evaluate public and private experiments in weather modification (67 Stat. 559, 561), approved August 13, 1953.

BACKGROUND OF THE LEGISLATION

The Advisory Committee on Weather Control is the result of legislation introduced by Senator Case of South Dakota, Senator Anderson of New Mexico, Senator O'Mahoney of Wyoming, and Senator Magnuson of Washington, in 1951 to provide a means whereby the Federal Government could study and evaluate various experiments indicating that man could modify clouds and create precipitation by various means and under certain circumstances.

The entire subject of "rainmaking" was highly controversial and speculative but the potential economic advantages of even slight ability to control or modify precipitation were considered sufficient to justify scientific study.

The Advisory Committee on Weather Control is composed of 11 members, 5 from private life of outstanding ability in the fields of science, agriculture, and business, appointed by the President subject to Senate confirmation, and 6 members, with alternates, from in-

terested Government departments. The staff of the Committee consists of 15 persons, mostly meteorologists and statisticians. The appropriation for fiscal year 1955 was $120,000, for fiscal year 1956, $275,000. Estimates for fiscal year 1957 are $360,000. It is anticipated that the 1958 request will be reduced substantially.

SUMMARY OF ACCOMPLISHMENTS

In his letter of transmittal accompanying the interim report to the President, dated February 8, 1956, the Chairman of the Advisory Committee on Weather Control, Howard T. Orville, briefs the Committee's accomplishments as follows:

1. The Committee has developed a superior methodology for evaluating weather-control experiments statistically.
2. It has, for the first time in history, completed an extensive series of evaluations showing that cloud seeding produces substantial and economically important increases in precipitation (in at least one part of the country—the Pacific Coast States).
3. It has initiated a vigorous program of physical evaluation which has already produced helpful results and now gives assurance of providing information vital to the solution of the problem.

APPENDIX

The following letters from affected Federal agencies were considered by the committee in connection with this proposed legislation. No objections have been received from any source.

ADVISORY COMMITTEE ON WEATHER CONTROL,
OFFICE OF THE CHAIRMAN,
Washington, D. C., March 2, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in reply to your letter requesting comments on S. 2913.

On February 7, 1956, the Advisory Committee unanimously approved an interim report to the President, for submission to the Congress, containing, among other things, the recommendation that the Committee's life be extended 2 years beyond June 30, 1956.

S. 2913 would accomplish this in a simple and direct manner and we therefore favor its prompt passage.

The Advisory Committee's program of statistical evaluation has shown that a group of cloud seeding projects have apparently produced precipitation increases ranging from 9 percent to 17 percent in the west coast States. If its life is extended, the Committee will attempt to find out whether such increases can be produced in other areas of the Nation.

The Advisory Committee's program of physical evaluation has tended to support the belief that the increases in precipitation found statistically have occurred actually. However, the committee must obtain more physical evidence in order to substantiate its findings.

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Furthermore, the work in physical evaluation can lead to improvements in engineering techniques for cloud seeding and the development of new scientific information.

The committee has "going" programs of statistical and physical evaluation with competent personnel to carry out and supervise them and, therefore, extension of its life offers the most effective and economical way for the Federal Government to maintain its interest in the field of weather modification.

Extension of the committee's life will allow time for it to make a careful study of the social, political, economic and legal implications of weather modification. This study has been started but held in abeyance while the Committee concentrated its major effort, during the short period of time available, on ascertaining the effectiveness of cloud seeding.

One matter needs clarification. Some persons believe wholeheartedly in the effectiveness of cloud seeding and feel that the Federal Government need only evaluate, independently and impartially, the extent of the results. Some others believe that applied research must be undertaken to confirm some basic facts and improve cloud seeding techniques. Still others believe that basic research in cloud physics offers the only solution.

All three of these approaches have merit and it would seem extremely unwise to concentrate on one at the expense of the others. The Advisory Committee is now carrying out statistical evaluation and is contributing in the field of applied research. Since the third approach, basic research, requires long-term planning and programs, the committee feels that other agencies with broader responsibilities and greater permanency must undertake this. The committee strongly recommends that they do so to the limit of their authority and resources.

A copy of the committee's interim report is attached for your convenient reference.

The Bureau of the Budget has advised that there is no objection to transmittal of this report and that enactment of this legislation is recommended.

Sincerely yours,

HOWARD T. ORVILLE,
Chairman.

THE SECRETARY OF COMMERCE,
Washington 25, D. C., March 20, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in reply to your request of January 16, 1956, for the views of this Department with respect to S. 2913, a bill to extend for 2 years the Advisory Committee on Weather Control.

The Department of Commerce recognizes the problem which the Advisory Committee on Weather Control has been attempting to evaluate since its establishment in 1953 as one of great importance and, at the same time, an exceedingly complex field. In stating our

position on this bill, we believe it would be worthwhile to recall briefly that this temporary agency was established at a time when there were widely divergent views and highly controversial aspects to the subject of weather modification. This is not to imply that the uncertainties are now resolved. However, the several major test programs completed after the enactment of Public Law 256, 83d Congress, by the Department of Defense, Weather Bureau, several cooperating universities, and other interested agencies, have contributed a large amount of useful information. These extensive experiments, plus the evaluation efforts to date by the staff of the Advisory Committee on Weather Control, now permit a much better assessment of the more immediate possibilities and probable limitations. This is especially true in that these evaluations have contributed substantially toward narrowing the margin of uncertainty and have furnished valuable guidelines for future research. As a result of our close association with and interest in this field, we tend toward the view that it is likely that the evaluations already made or nearly completed have reached a point of diminishing returns, and that future important progress will be contingent upon further research, especially basic research, which existing Government agencies are well qualified and authorized to conduct.

The foregoing comments are intended mainly to help place the scientific status of the subject of weather modification in proper perspective, and as such may be of interest to your Committee. Considered by themselves, these comments would appear to argue in favor of terminating the functions of this temporary agency. At the same time we are cognizant of the fact that S. 2913 is in accordance with the recommendations agreed to by a majority of the present members of the Advisory Committee on Weather Control. Considerable weight has been given by the members to the difficulties of arriving at conclusions in the final sense, and the fact that the evaluation work of the Committee was foreshortened due to circumstances beyond its control. In view of the recommendation of the Committee as a whole, the Department of Commerce will offer no objection to the enactment of this legislation.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this report to your Committee.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

JANUARY 20, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 2913, to extend for 2 years the Advisory Committee on Weather Control.

The bill would extend for 2 years, from June 30, 1956 to June 30, 1958, the existence of the Advisory Committee on Weather Control established by Public Law 256, 83d Congress.

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The subject matter of the proposed legislation is not related to the activities of the Treasury Department, and the Department has no comments to make with respect to the merits of the bill.

Very truly yours,

FRED C. SCRIBNER, Jr.,
General Counsel.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington 25, D. C., January 24, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR MR. CHAIRMAN: Your letter of January 16, 1956, acknowledged January 17, transmits a copy of S. 2913 and requests any comments we may care to offer concerning the proposed legislation.

The legislation proposed by the bill would amend the act of August 13, 1953, 67 Stat. 559–561, by extending the expiration date therein fixed from June 30, 1956, to June 30, 1958. That act created a committee to study and evaluate public and private experiments in weather modification.

Our Office has no record information regarding the progress which the Committee may have made in the directed study, or regarding the need for additional time for its completion. However, we see no particular objection to extending the expiration date as proposed.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., March 20, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington 25, D. C.

MY DEAR SENATOR MAGNUSON: This responds to your request for the views of this Department on S. 2913 a bill to extend for 2 years the Advisory Committee on Weather Control.

We recommend that the bill be enacted.

S. 2913 would extend the life of the Advisory Committee on Weather Control for 2 additional years, to June 30, 1958. It would appear that continued studies by the Committee can contribute materially to our knowledge in the field of weather control, including the control of precipitation.

The Department of the Interior has an interest in the activities of the Committee because of our varied responsibilities in the field of water resources development. As custodian of the millions of acres of public lands and administrator of the reclamation program in the arid and semiarid Western States, and of the national parks, this Department is daily concerned with the preservation and enhancement of the Nation's water supply. The extension of the life of the Ad-

visory Committee, in order to complete its evaluation studies, should be of great value to this Department in the planning and administration of its water resources and related land-use programs.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

FELIX E. WORMSER,
Assistant Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., March 19, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR SENATOR MAGNUSON: This is in reply to your request of January 16, 1956, for a report on S. 2913, a bill to extend for 2 years the Advisory Committee on Weather Control.

This Department favors the enactment of S. 2913, in order that the Committee may have sufficient time to complete its activities and prepare a report to the President for submission to the Congress.

The bill proposes that section 10 (a) of the act entitled "To create a committee to study and evaluate public and private experiments in weather modifications", approved August 13, 1953, be amended by striking out "June 30, 1956" and inserting in lieu thereof "June 30, 1958."

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE,
Acting Secretary.

MARCH 19, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to S. 2913, 84th Congress, 2d session, a bill to extend for 2 years the Advisory Committee on Weather Control. The Secretary of Defense has delegated to the Department of the Army the responsibility for expressing the views of the Department of Defense thereon.

The Department of the Army on behalf of the Department of Defense favors the above-mentioned bill.

The purpose of S. 2913 is to amend section 10 (a) of the act entitled "An act to create a committee to study and evaluate public and private experiments in weather modifications," approved August 13, 1953 (67 Stat. 559, 561), by striking out "June 30, 1956" and inserting in lieu thereof "June 30, 1958." This action will extend for 2 years the Advisory Committee on Weather Control.

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The Department of the Army on behalf of the Department of Defense recommends that the proposed amendment, which was designed to extend the existence of the Advisory Committee on Weather Control, be enacted by the Congress.

The enactment of the proposed bill will cause no apparent increase in the budgetary requirements for the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that there is no objection to the submission of this report to the Congress.

Sincerely yours,

WILBER M. BRUCKER,
Secretary of the Army.

MARCH 16, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 2913) to extend for 2 years the Advisory Committee on Weather Control.

The act approved August 13, 1953 (Public Law 256, 83d Cong., 67 Stat. 559) created a committee to study and evaluate public and private experiments in weather modification and provided that such committee shall submit its final report to the President for submission to the Congress not later than June 30, 1956; 30 days after submission of such final report the committee would cease to exist. The bill would extend for a period of 2 years, or from June 30, 1956 until June 30, 1958, the termination date of the committee.

Whether the bill should be enacted is a matter of policy on which the Department of Justice expresses no opinion.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

PUBLIC LAW 256, 83D CONGRESS

AN ACT To create a committee to study and evaluate public and private experiments in weather modification

* * * * * * *

SEC. 10. (a) The Committee shall from time to time submit a report on its findings and recommendations to the President for submission

to the Congress. At the earliest possible moment, the Committee shall submit a report to the President for submission to the Congress on the advisability of the Federal Government regulating, by means of licenses or otherwise, those who attempt to engage in activities designed to modify or control the weather. The Committee shall submit a final report to the President for submission to the Congress not later than [June 30, 1956] *June 30, 1958.*

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Calendar No. 1889

84TH CONGRESS, 2d Session | SENATE | REPORT No. 1867

PROVIDING PERMANENT CERTIFICATION FOR STATES-ALASKA AIR CARRIERS

APRIL 26, 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 3164]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 3164), having considered the same, reports favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of S. 3164 is to authorize permanent certification for certain air carriers operating between the United States and Alaska. The bill would amend section 401 (e) of the Civil Aeronautics Act of 1938, as amended, to require the Civil Aeronautics Board to issue permanent certificates of public convenience and necessity to the qualified air carriers engaging in States-Alaska air transportation under temporary certificates of public convenience and necessity.

The bill will enable each of the qualified carriers to more economically, efficiently, and satisfactorily provide air service over important routes which are of great significance to the welfare of the citizens in Alaska and of substantial importance to the defense effort in that part of the world. Continued development of the resources of the Territory of Alaska is a matter of significance to the whole country, and the efforts of the States-Alaska air carriers to aid in that development must be encouraged.

COMMITTEE ACTION

This legislation was introduced by the chairman in recognition of the fact that the affected air carrier routes have become an integral part of our national transportation system and are providing services which are essential to the national interest in the continued development of economic and military assets of Alaska. It is felt that the

qualified carriers are entitled to permanent certification on their States-Alaska routes in order to permit them to become more self-sufficient.

Your committee held hearings on S. 3164 on March 26, 1956. The House of Representatives held hearings during the same week on a similar bill which it had before it.

NEED FOR LEGISLATION

The granting of permanent certificates of public convenience and necessity to qualified carriers for their States-Alaska routes will aid considerably in solving many of the problems with which they are faced. The hearings revealed a striking similarity between the problems of these carriers and the problems of the local service airlines for which Congress sought to find a solution during the last session. Examples of ways in which the public interest will be better served and expense to the Government in the form of subsidy minimized by this bill are substantially identical to those cited in our Report No. 124 during the first session in support of our recommendation that S. 651, granting permanency to the local service airlines, pass. These benefits to the public and to the Government may be summarized as follows:

1. The recurrent and extensive diversion of executive talent to certificate renewal proceedings will be ended so that executive talent can be devoted to improving the operations of the airlines themselves and thereby serving the public interest and generating more commercial revenues.

2. The expense saddled upon the carriers by recertification proceedings, estimated upward to $100,000 for each renewal, will be terminated and that money can be devoted to such capital improvements as maintenance and navigational aids and other improvements contributing to the financial and operational progress of the carriers.

3. The great expense and inconvenience to States and cities and other users of the service who must devote great effort to supporting applications for renewal will be ended. Likewise the great expense to the Federal Government of having the Civil Aeronautics Board conduct such proceedings will be terminated and we may anticipate a consequent reduction in the administrative expense of the Board.

4. States and municipalities (and to a certain extent the Federal Government) which have invested money in aeronautical facilities will have some assurance that their investments in those facilities may be considered foresighted rather than speculative.

5. The promotion of American commerce and national unity will be furthered by strengthening and making permanent the routes of air carriers which have been flying thousands of passengers and millions of pounds of cargo and mail between the States and Alaska for the past several years.

6. The carriers may develop long-range personnel programs and offer long-range careers to employees. In the past many contracts of employment with these carriers have had to be short range and have led to a personnel turnover rate twice that of the trunk carriers and a consequent high training and replacement expense.

7. The carriers may, after passage of this legislation, make long-term arrangements for the larger and more expensive aircraft needed

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for the service and for hangars, navigational equipment, maintenance, and other facilities with the consequent economies to themselves and the Government that are inevitable from such arrangements.

8. Users of the services of the airlines will be able to plan new businesses and expansions of, or additions to, old businesses with some confidence that the air service on which they depend is permanent.

9. Passage of the bill will enable the airlines to establish sensible financing programs on a long-range basis. Such disadvantages as premium interest rates on loans, loan periods timed to temporary certificate dates, and many other penalties which the uncertain nature of the airlines' prospects have visited upon them may be either reduced or avoided.

Your committee realizes that none of the above-listed consequences is going to flow automatically from the passage of this bill. A great deal of effort and hard work will still be required on the part of the carriers to make the above-listed effects realities, but your committee is satisfied on the basis of past performance of these airlines and on the basis of the appearances of the witnesses before it that the incentive for progress is abundant in the current management of the carriers. For these reasons, your committee believes that this bill will permit the affected airlines to operate on a more efficient and more economical basis and in time to reduce substantially their need for subsidy mail pay from the Feneral Government.

The only opposition to the bill was expressed by the Department of Commerce, which takes the position that the duration of a certificate of public convenience and necessity is an issue to be decided by the Civil Aeronautics Board on the basis of the facts in each case under standards laid down by Congress in the Civil Aeronautics Act. Your committee feels that a proper application of those statutory standards in this instance, as in the case of the local service airlines, dictates the necessity for this legislation. In this respect, the Civil Aeronautics Board has indicated that in its opinion economic conditions and other circumstances applicable to States-Alaska carriers are generally the same as in the case of the local service airlines, and now acknowledges that the enactment of this bill is in the public interest. Certainly, your committee knows of no reason for according different treatment to the States-Alaska airlines than Congress accorded to similarly situated local service carriers less than a year ago.

The other executive departments which submitted comments regarding the bill were either in favor of it or took no position. As noted above, the Civil Aeronautics Board, which has primary jurisdiction over the carriers affected, recommends passage of the legislation, stating that this legislation was in the national interest.

In this connection the Board calls to our attention the desirability of clarification with respect to the possible application of section 801 of the Civil Aeronautics Act to certificates of public convenience and necessity which it may be called upon to issue when this bill is enacted into law. Even though the certificates of public convenience and necessity which would be issued under this bill authorize "overseas air transportation" as defined in the Civil Aeronautics Act, your committee feels that the issuance of such certificates shall not be subject to Presidential approval under section 801 of the act, because they would be "issuable under section 401 (e)" of the act and, therefore, by the language of the last sentence of section 801, clearly not within the application of that section.

HISTORY AND PROGRESS OF STATES-ALASKA SERVICE

Air transportation between the States and Alaska has been almost entirely a postwar development. During the war only limited service was provided by one carrier and no direct service existed between the States and Anchorage, the largest city in the Territory and center of defense activities in the area. In 1946 Northwest Airlines was certificated on a 7-year basis between Seattle and Anchorage and between Minneapolis-St. Paul and Anchorage via Edmonton. In 1951, to meet the increasing demands for service, Pacific Northern Airlines was authorized to operate between Anchorage and Seattle-Portland via Cordova and Juneau and Alaska Airlines was authorized to operate between Fairbanks and Seattle-Portland. These latter two certificates were each of 28 months duration, expiring simultaneously with the temporary certificates held by Northwest.

After extensive proceedings in 1953–55, the Civil Aeronautics Board in May 1955 decided to renew the temporary certificates of all three States-Alaska carriers. Northwest's authorization to operate between Seattle and Anchorage was renewed on a permanent basis and its certificate for the Twin Cities-Anchorage route was renewed for a period of 3 years. The temporary routes of both Alaska Airlines and Pacific Northern were to be renewed for 3 years under the Board's decision but at the direction of the President renewals were finally issued for a 5-year period, expiring in 1960.

The historical and prospective developments in the economy and defense of Alaska indicate that the public need for the services of the present States-Alaska carriers will continue, and in fact will increase. Today, the airlines provide the only common carrier passenger service between the States and Alaska. There are no railroads in that area and steamship service is confined to freight. The only alternative means of personal travel is by auto over the Alcan Highway. Moreover, surface transportation for freight is slow and the airlines provide the best service for perishable foods and other cargo having a high value in relation to weight.

As a consequence of all these factors, the volume of passenger, cargo and mail traffic carried by States-Alaska airlines has shown a steady and continuous growth. The future of both the Territory and the airlines which connect it with the States seems secure, especially if the airlines are at this time given the stability and security which they so much require to be able to reduce their subsidy requirements.

All of the foregoing demonstrates that all of the reasons which impelled Congress to enact permanent certificate legislation for the benefit of the local service airlines apply with equal force in support of the desirability of similar action on behalf of the States-Alaska air carriers. In addition there are factors which favor this bill which were not present in connection with the local service airline bill. In the first instance, States-Alaska air service is not simply and alternative means of transportation; it is rather the only modern means for personal travel and fast freight shipment between the States and the Territory. Second, the record contains evidence of interest by high military officials in the continued development of civilian air transportation between the States and Alaska as an essential adjunct of military activities in the area.

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CONCLUSION

In 1938, Congress enacted legislation similar to S. 3164 granting "grandfather rights" to domestic trunk airlines. That action contributed substantially to the rapid growth of the air transportation system which this country presently enjoys and to the prosperity of the trunk airlines so that today all but 2 or 3 of them are subsidy free. Last year during the first session, both Houses of Congress unanimously passed similar legislation granting grandfather rights to the local service airlines in anticipation that they would realize benefits therefrom of the same type as did the trunk airlines from the earlier legislation. Your committee believes that S. 3164 will have similar salutary effects upon States-Alaska air carriers with corresponding benefits to the millions of Americans who live in the areas served by those airlines and especially to those people who depend on those airlines for essential services which are not otherwise obtainable. Your committee, therefore, recommends that this type of legislation be now extended to States-Alaska carriers, and that the bill, as introduced and as reported, do pass.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

CIVIL AERONAUTICS ACT

* * * * * * *

TITLE IV—AIR CARRIER ECONOMIC REGULATIONS—CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

SEC. 401. * * *

EXISTING AIR CARRIERS

* * * * * * *

(e) * * *

(3) If any applicant who makes application for a certificate within one hundred and twenty days after the enactment of this paragraph shall show that, from January 1, 1953, to the date of its application, it or its predecessor in interest, was an air carrier furnishing, within the continental limits of the United States, local or feeder service consisting of the carriage of persons, property and mail, under a temporary certificate of public convenience and necessity issued by the Civil Aeronautics Board, continuously operating as such (except as to interruptions of service over which the applicant or its predecessors in interest have no control) the Board, upon proof of such fact only, shall, unless the service rendered by such applicant has been during the period since its last certification inadequate and inefficient, issue a certificate or certificates of unlimited duration, authorizing such applicant to engage in air transportation between the terminal and intermediate points within the continental limits of the United States between which it,

or its predecessor, so continuously operated between the date of enactment of this section and the date of its application: *Provided*, That the Board in issuing the certificate is empowered to limit the duration of the certificate as to not over one-half of the intermediate points named therein, which points it finds have generated insufficient traffic to warrant a finding that the public convenience and necessity requires permanent certification at such time.

(4) *If any applicant who makes application for a certificate within one hundred and twenty days after the date of enactment of this paragraph shall show that, from January 1, 1956, until the effective date of this paragraph, it, or its predecessor in interest, was an air carrier continuously operating as such (except as to interruptions of service over which the applicant or its predecessor in interest had no control) under a temporary certificate of public convenience and necessity authorizing it to engage in air transportation with respect to persons, property, and mail between points in the continental United States and points in the Territory of Alaska, the Board, upon proof of such fact only, shall, unless the service rendered by such applicant during such period was inadequate and inefficient, issue a certificate or certificates of unlimited duration, authorizing such applicant to engage in air transportation with respect to persons, property, and mail between the terminal and intermediate points between which it or its predecessor so continuously operated between January 1, 1956, and the date of enactment of this paragraph.*

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Calendar No. 1891

84TH CONGRESS, 2d Session | SENATE | REPORT No. 1868

PROVIDING PERMANENT CERTIFICATION FOR INTRA-ALASKA AND INTRA-HAWAII AIR CARRIERS

APRIL 26, 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 3163]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 3163) to authorize permanent certification for certain air carriers operating in Alaska and in Hawaii, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

PURPOSE

S. 3163 would amend section 401 (e) of the Civil Aeronautics Act of 1938, as amended, to incorporate therein a provision giving rights of permanent certification to air carriers authorized to furnish service within the Territory of Alaska and the Territory of Hawaii, for any portion of that service which was performed pursuant to a temporary certificate.

There are presently engaged in air transportation within Alaska 9 air carriers; 2 of the carriers are engaged in air transportation over local routes exclusively within southeastern Alaska; 7 carriers are operating local routes in the interior of Alaska, 2 of which also operate between points in the continental United States and points in Alaska; 1 local carrier is in process of being acquired by another local carrier, and 1 of the States-Alaska carriers holds only permanent certificates within Alaska.

The bill as amended would therefore affect present temporary rights held by 2 carriers operating exclusively in southeastern Alaska, 4 operating exclusively within the interior of Alaska, and 1, which is also operating between the States and Alaska, with respect to its local Alaskan operating rights. Each of the affected air carriers operating within Alaska (with the exception of 1 carrier whose entire

authorization is temporary) holds to varying extent certain permanent authorizations, but each also holds vital temporary certificate authorizations to which the provisions of S. 3163 are directed.

Trans-Pacific Airlines, Ltd. is the only temporary certificated carrier providing service within the Territory of Hawaii.

The bill will assist materially the efforts of the carriers affected to improve the service which they provide within the Territories of Alaska and Hawaii. It will enable them to plan on a long-range basis, without the uncertainty resulting from periodic and costly renewal proceedings. It will materially assist them in necessary financing for new and more economic equipment, which is a factor of immediate and increasing importance.

The bill recognizes the vital significance and relationship of air transportation to the development, growth, and very existence of the Territories, the importance to the national defense, and the fact that the affected routes and carriers are now established as stable, basic and permanent entities in our national transportation system.

The bill would extend to the carriers operating within Alaska and Hawaii provisions for permanent certification somewhat similar to those contained in the legislation granting permanent certificates to the domestic local service carriers. The routes and carriers affected by the bill in most instances constitute the only means of transportation between the points that they served. The economic conditions, and such circumstances as financing problems, long-range planning and the elimination of uncertainty, applicable to the local service carriers as considerations justifying the passage of the local service permanent certificate bill are, as the Civil Aeronautics Board has recognized, applicable to the carriers who would be benefited by this bill.

COMMITTEE ACTION

This legislation was introduced by the chairman of our committee in recognition of the fact that the same factors which had hampered the growth and further development of local service air carriers are no less true with respect to the carriers affected by this bill; and that their continuing trends toward self-sufficiency will be furthered and encouraged by permanent certification of their temporary authorizations.

Committee hearings were held on S. 3163 on March 26, 1956. The House of Representatives held hearings during the same week on a similar bill pending before it.

The committee desires to make clear, as called to our attention by the Civil Aeronautics Board, that any permanent certification issued pursuant to this bill is not subject to Presidential approval under section 801 of the Civil Aeronautics Act. Section 801 does not apply to the issuance or denial of any certificate issuable under section 401 (e).

All routes within Alaska are conducted by air carriers operating exclusively and solely within the Territory, with the exception of two States-Alaska carriers, who also hold certain certificates for routes within the Territory. One of the States-Alaska carriers holds some temporary local certificates. Your committee has amended the bill to delete the words "exclusively" and "solely", so as to bring within

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its scope all temporary certificate authorizations within the Territory, in accordance with comments submitted by the Civil Aeronautics Board directed to the bill as introduced.

NEED FOR LEGISLATION

Granting permanent certificates of public convenience and necessity to the air carriers concerned will aid considerably in the solution of many problems with which they are being faced in increasing measure. Your committee was impressed with the fact that carriers operating within the Territory of Alaska antedated the Civil Aeronautics Act of 1938 by many years, in 1 case as long as 14 years. These carriers have been providing in most cases the only means of transportation in their respective areas for periods of more than a quarter of a century.

It was testified, without exception, operations over every route within the Territory of Alaska preceded the grant of certificates by the Board. However, it was also clear from the testimony that although all of the carriers, with one exception, possess certain permanent certificated authorizations, vital authorizations are still represented by temporary certificates. This fact constitutes a continuing source of uncertainty, with adverse impact upon the efforts of the carriers to seek both equity and debt financing.

As the Civil Aeronautics Board has testified, economic conditions and other circumstances applicable to the local service carriers are also generally applicable to the carriers who would be benefited by this bill. Testimony before your committee reflected a substantial analogy between the problems of the territorial carriers and the problems of the local service air carriers. The considerations cited in our Report No. 124 during the first session in support of our recommendation that S. 651, granting permanency to the local service air carriers, be enacted, are no less applicable to the territorial carriers. Because of the temporary nature of vital portions of their operating authorizations, the territorial carriers, as in the case of the local service air carriers, have experienced difficulty in securing adequate financing and have been forced to pay a high price for such financing as has been obtained.

Needed improvements have been deferred. In many cases, at great expense to themselves, both equipment and maintenance facilities, essential to the continuance of operations and important to the national defense, have been accomplished only through expensive short-term debt financing.

Examples were cited to your committee in which vitally needed hangar facilities, required by the Civil Aeronautics Administration and urged by the Alaska Air Command, were constructed only through defense loan certification with funds unavailable through commercial channels. Cases were cited to your committee of capital requirements anticipated in the immediately foreseeable future for additional equipment and hangar facilities for which long term and reasonable debt or equity financing will require the stability and security assured by permanent certification. Testimony was given concerning the requirement for new aircraft better adapted and designed to meet the operating and economic characteristics of Alaska routes, and with respect to experienced difficulties in obtaining adequate financing therefor arising in large measure from the fact that impor-

tant segments of the routes were on a temporary certificated basis. Many of the contemplated improvements are essential to further economies, to reduction of unit costs, and to the efforts of the carriers to be self-sustaining.

Permanent certification will eliminate the expenses of periodic renewal proceedings. Such economies will contribute directly to the financial welfare of the carriers. Funds otherwise spent in expensive renewal proceedings can be channeled into promotional expenditures and necessary capital improvements. This will increase traffic, reduce costs, improve services, all to the overall betterment of the carriers, the public being served, and the Government.

Periodic renewal proceedings and the uncertainty of certificate franchises have, as in the case of the local service air carriers, constituted a substantial drain upon the time and energies of both air carrier and Government personnel. Recurring diversion of executive talent to certificate renewal proceedings can be substantially eliminated by the passage of the bill to the end that the full efforts of the carriers and their personnel may be focused and concentrated upon improving operating efficiencies, better procedures, and more efficient service.

The ability to plan future operations will be promoted and improved by passage of the bill. The uncertainty with respect to franchise tenure is a most debilitating and weakening factor in the efforts of any public utility to make long-range plans, whether in terms of equipment, traffic promotion, operations, or other facilities and procedures relating to service. Permanency and stability of franchise tenure was a key factor in the original enactment of the Civil Aeronautics Act, in 1938, when the permanent grandfather rights accorded the present trunklines were originally enacted. This legislative treatment was subsequently accorded the local service air carriers. Such actions with respect to the domestic air carriers and the local service air carriers have been most effective and instrumental in strengthening the affected carriers and facilitating the development of air transportation. Our territorial carriers are no less permanent fixtures in the national air transportation system, and in fact are even more vital to the areas served in their transportation role. Permanent certification seems particularly appropriate in the case of our territorial air carriers.

Your committee does not intend that granting permanent grandfather rights as provided in this bill will freeze the present pattern of service so as to inhibit in any way in the future the amendment or modification of the present route systems, or of the terms, conditions, and limitations of the certificates, pursuant to section 401 of the Civil Aeronautics Act.

The Civil Aeronautics Board has advised your committee of the formal investigation of intra-Alaska air services that the Board is now conducting, known as the Investigation of Intra-Alaska Air Services. The purpose of this proceeding is to enable the Board to determine measures for strengthening both the route and carrier structures within Alaska. The Board has stated that issuance of permanent authorizations as provided for by S. 3103 will not interfere with or affect the Board's conduct of the formal Intra-Alaska Investigation proceeding. Your committee's action was taken, not to preclude this investigation by the CAB; but in the interests of time and because the CAB had not acted nor was not certain in this matter.

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PROGRESS OF THE TERRITORIAL AIR CARRIERS

Trans Pacific, the Hawaiian air carrier, affected by this bill was originally certificated to provide needed competition for air transportation in the Hawaiian Islands. This finding was renewed in the most recent Trans Pacific Renewal case, concluded last May, which showed a continuing need for competitive air service and a record of reduced dependency upon subsidy; and increasing traffic development in Hawaii.

Pioneering of air transportation within Alaska was accomplished by the managements of the carriers affected by the bill only by the exercise of the utmost ingenuity, in areas which are considered the most difficult in terms of operational problems of any to be encountered in the world. While the population is small, the areas is large and the isolated communities are in most instances entirely dependent upon the facilities of the affected carriers for their very survival. It was brought to the attention of your committee that there is more travel within Alaska per capita of population than possibly anywhere else in the world.

The affected carriers are far removed from sources of financing which must be found in the States. There is little resident capital in the Territory of Alaska and because of its scarcity interest charges are high. Major loans required for airline operations must be sought outside the Territory. Carriers must have recourse to banks and other financial institutions who are not familiar with the vital services they perform, and who can only look to financial statements and the nature of their franchises in determining their stability for the extent and terms of financial assistance which can be rendered. It is all important to future financing problems that Congress recognize as to these carriers the same entitlement to permanency which was accorded the trunkline carriers in 1938 and the local service air carriers in 1955.

Records submitted by the Civil Aeronautics Board and other information presented to your committee show the tremendous strides which have taken place in the volume of traffic and reduction of subsidy within Alaska. Total subsidy paid to all intra-Alaska carriers is now at a rate substantially less than $4 million, representing a major reduction over recent years, and evidencing the commendable strides which these carriers have taken toward self-sufficiency during the very periods in which they have been increasing and improving their facilities and services.

A substantial portion of the total traffic of intra-Alaska carriers is represented by mail, to a much larger extent than any other class of air carriers, amounting to almost 20 percent of their total revenue ton-miles, contrasted with 2.6 percent for the local service carriers, 4 percent for the domestic trunklines and 8 percent for the international and overseas carriers.

The total subsidy paid to intra-Alaska carriers, who will be affected by the bill, has been reduced from $4,463,000 in 1954 to $3,256,000 for the fiscal year 1956, as estimated by the Civil Aeronautics Board. This continued reduction of subsidy levels, as reflected by recent mail-rate decisions of the Civil Aeronautics Board, would indicate that the actual subsidy for intra-Alaska air carriers for the fiscal year 1956 has already been reduced by more than $200,000, so that it is

quite likely that the affected intra-Alaska carriers will be receiving, by the end of this fiscal year, subsidy payments at a level of less than $3 million.

Total revenue ton-miles for the intra-Alaska carriers increased from 6 million to 12 million between 1952 and the year ended September 30, 1955. Freight ton-miles increased from 1,610,000 to almost 7 million during the same period. Mail ton-miles increased from 281,000 to 1,266,000 between 1948 and the year ending September 1955.

CONCLUSION

In the light of the progress which has attended the efforts of our intraterritorial carriers, under the most difficult of circumstances, their importance to the national defense, the commerce, and postal service, the permanency of their function as the main and well-nigh the sole mode of transportation in their areas, the fact that the affected carriers are not engaged in a temporary or experimental program but are as permanent as the Territories they serve, there is every reason for extending these carriers and no reason for precluding therefrom the same rights which the Congress has already accorded the domestic trunklines and the local service air carriers. No private interests appeared in opposition to the bill. The Civil Aeronautics Board has endorsed the bill and has advised your committee that passage thereof will not prejudice the overall statutory responsibilities and functions of the Board in its regulation of air transportation within the Territories.

No opposition was expressed to the bill from any party, or executive department, other than in a letter from the Department of Commerce. The grounds for the opposition are not clearly applicable to the intra-Alaska carriers. However, to the extent applicable, the evidence before your committee shows that the intra-Alaska carriers have antedated the Civil Aeronautics Act, and that all of their routes, whether certificated prior or subsequent to 1942, were in all cases provided with service prior to the issuance of the individual certificates. The Civil Aeronautics Board in endorsing the bill, has advised us that the passage of the bill would not, as stated by the Department of Commerce, "hamper the Board" in its regulation of the air transportation involved.

We considered the opposing views of the Department of Commerce when we recommended the enactment of the local service bill. We then found that the legislation would not "freeze" the service pattern or otherwise prejudice the sound regulation of air transportation by the Civil Aeronautics Board. We find no reasons suggested in the present representations of the Department of Commerce which justify a change in the policy underlying the enactment of the local service permanent certification bill, and there have been no reasons presented to your committee why the Territorial carriers should be accorded different legislative treatment.

Permanent certification has benefited the domestic trunklines and the local service carriers. This committee believes that S. 3163 will have similar salutary effects upon Territorial carriers with corresponding benefits to the commerce, the national defense, and the postal service; and especially to the vital defense projects and to the many

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individuals and communities who depend on these air carriers for the transport services for which there is no practical substitute. Your committee recommends that the bill as reported do pass.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

CIVIL AERONAUTICS ACT

* * * * * * *

TITLE IV—AIR CARRIER ECONOMIC REGULATION—CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

SEC. 401. * * *

EXISTING AIR CARRIERS

* * * * * * *

(e) * * *

(3) If any applicant who makes application for a certificate within one hundred and twenty days after the enactment of this paragraph shall show that, from January 1, 1953, to the date of its application, it or its predecessor in interest, was an air carrier furnishing, within the continental limits of the United States, local or feeder service consisting of the carriage of persons, property and mail, under a temporary certificate of public convenience and necessity issued by the Civil Aeronautics Board, continuously operating as such (except as to interruptions of service over which the applicant or its predecessors in interest have no control) the Board, upon proof of such fact only, shall, unless the service rendered by such applicant has been during the period since its last certification inadequate and inefficient, issue a certificate or certificates of unlimited duration, authorizing such applicant to engage in air transportation between the terminal and intermediate points within the continental limits of the United States between which it, or its predecessor, so continuously operated between the date of enactment of this section and the date of its application: *Provided*, That the Board in issuing the certificate is empowered to limit the duration of the certificate as to not over one-half of the intermediate points named therein, which points it finds have generated insufficient traffic to warrant a finding that the public convenience and necessity requires permanent certification at such time.

(4) If any applicant who makes application for a certificate within one hundred and twenty days after the date of enactment of this paragraph shall show that on such date it was an air carrier, furnishing service within either the Territory of Hawaii or the Territory of Alaska (including service between Alaska and adjacent Canadian territory) authorized by certificate or certificates of public convenience and necessity issued by the Civil Aeronautics Board to render such service within such Terri-

tory, and that any portion of such service between any points or for any class of traffic was performed pursuant to a temporary certificate or certificates of public convenience and necessity issued by the Civil Aeronautics Board, the Board shall, upon proof of such facts alone, issue a certificate or certificates of indefinite duration authorizing such applicant to engage in air transportation within such Territory between the same points and in the same manner and for each such class of traffic as temporarily authorized by such certificate or certificates as of the date of enactment of this paragraph.

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Calendar No. 1894

84TH CONGRESS, 2d Session | SENATE | REPORT No. 1869

PROVIDING FOR APPOINTMENT OF DOCTORS OF OSTEOPATHY AS MEDICAL OFFICERS IN THE ARMED SERVICES

APRIL 26, 1956.—Ordered to be printed

Mr. RUSSELL, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H. R. 483]

The Committee on Armed Services, to whom was referred the bill (H. R. 483) to amend the Army-Navy-Public Health Service Medical Officer Procurement Act of 1947, as amended, so as to provide for appointment of doctors of osteopathy in the Medical Corps of the Army, Navy, and Air Force, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

(a) The second sentence of section 201 (a) of the Army-Navy-Public Health Service Medical Officer Procurement Act of 1947, as amended, is amended (1) by inserting immediately before the word "qualified" "(1)" and (2) by striking the period at the end thereof and inserting a comma and the following: "or (2) doctors of osteopathy who are qualified under subsection (g) hereof."

(b) Sections 201 (b) and (e) of such Act are amended (1) by inserting immediately after the word "medicine" wherever it appears therein "or osteopathy" and (2) by inserting in the second sentence of Section 201 (b) after the word "medical" the following: ", osteopathic".

(c) Section 201 of such Act is further amended by adding at the end thereof the following new subsection:

"(g) to be eligible for appointment under this Act a doctor of osteopathy must (1) be a citizen of the United States, (2) be a graduate of a college of osteopathy whose graduates are eligible for licensure to practice medicine or surgery in a majority of the States, and be licensed to practice medicine, surgery, or osteopathy in one of the States or Territories of the United States or in the District of Columbia, (3) be recommended for such appointment by the Surgeon General of the Army or Air Force or the Chief of the Bureau of Medicine and Surgery of the Navy, (4) possess such qualifications as the Secretary concerned may prescribe for his service, and (5) under regulations prescribed by the Secretary of Defense have completed a number of years of osteopathic and preosteopathic education equal to the number of years of medical and premedical education

prescribed for persons entering recognized schools of medicine who became doctors of medicine and who would be qualified for appointment under this title in the grade for which such doctor of osteopathy is applying."

EXPLANATION OF AMENDMENT

For technical reasons the committee reported an amendment in the nature of a substitute for H. R. 483. These changes were required since the Army-Navy-Public Health Service Medical Officer Procurement Act of 1947 has been amended by other legislation (the Medical and Dentral Officer Incentive Act) since H. R. 483 passed the House. All changes were technical in nature except for the amendments discussed below.

The committee amended the bill so as to insure that doctors of medicine with the same amount of civilian practice as doctors of osteopathy will not be penalized with regard to the rank of their initial appointment because the prescribed period of education for doctors of medicine was longer than that of osteopathy. The particular rank which the military departments extend to doctors of medicine as a medical officer depends upon the length of his civilian practice. There may be cases where a doctor of osteopathy began his education at the same time as a doctor of medicine, but because of the shorter period of required training, both undergraduate and graduate, the doctor of osteopathy will have completed a greater number of years of civilian practice than the doctor of medicine.

This mandatory language will require, under regulations prescribed by the Secretary of Defense, that the disparity in the required education for the two professions will be taken into account in determining the grades awarded to doctors of medicine and doctors of osteopathy. The period of medical education will be that prescribed for schools of medicine recognized by the Secretary of the Army and the Secretary of the Navy.

The committee also amended the bill by providing that a doctor of osteopathy in order to be eligible for an appointment must be recommended for such appointment by the Surgeon General of the Army or Air Force, or the Chief of the Bureau of Medicine and Surgery of the Navy. This amendment would not cause any change in the procedures from what would otherwise be adopted with respect to appointments of doctors of osteopathy in the Regular Medical Corps. The committee assumes that the Surgeons General, as a matter of administrative practice, would approve all appointments of doctors of osteopathy just as the Surgeons General now do with respect to applications for appointment of doctors of medicine. This amendment will insure, as a matter of statutory authority, that the Surgeons General will have the opportunity to pass on the qualifications and the needs of the respective corps with regard to the appointment of doctors of osteopathy.

PURPOSE OF THE BILL

The purpose of H. R. 483, as amended, is to authorize the appointment of doctors of osteopathy as medical officers in the Medical Corps of the Army and the Navy and their designation as medical officers in the Air Force. Other than the provisions of the committee amendments, a doctor of osteopathy would be eligible for such an appoint-

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ment only (1) if he is a graduate of a college of osteopathy whose graduates are eligible for licensure to practice medicine or surgery in a majority of States, and (2) if the doctor of osteopathy is licensed to practice medicine, surgery, or osteopathy in one of the States or Territories of the United States, or in the District of Columbia.

SUPPORT OF THE LEGISLATION BY OFFICE OF SECRETARY OF DEFENSE

In testifying in support of H. R. 483, Dr. E. H. Cushing, Deputy Assistant Secretary of Defense (Health and Medical), stated that the—

> enactment of H. R. 483 would have the effect of increasing the sources from which the three military departments may obtain needed medical personnel. There are many osteopaths in the United States who, as a result of having passed regular State board examinations in 1 of 35 States or the Territory of Hawaii or District of Columbia, are fully licensed to practice medicine and surgery. Inasmuch as each State possesses the power to license the practice of medicine and the osteopaths in question have conformed with the requirements of their respective States, the Department of Defense believes it would be desirable to have the authority to secure the benefit of their skills in the Armed Forces.

In a later hearing on the bill the Department of Defense position was reiterated by Dr. Frank B. Berry, Assistant Secretary of Defense (Health and Medical), who also stated that the Defense position was supported by Assistant Secretary of Defense Carter L. Burgess and the Secretary of Defense.

The representatives of the Office of Secretary of Defense insisted on their position throughout the hearings despite the fact that the Surgeons General of the Army and Air Force, and the Chief of the Bureau of Medicine and Surgery of the Navy testified in opposition to the bill.

SUPPORT OF LEGISLATION BY DEPARTMENT OF DEFENSE

In view of the conflict of testimony, in which the representatives of the office of the Secretary of Defense supported the bill while the Surgeons General opposed its enactment, the committee requested the Secretary of Defense to personally clarify the position of his Department regarding the bill.

The reply of Secretary of Defense Wilson, which is printed in full at the end of this report, supports the legislation. A pertinent part of the letter is as follows:

> Since the legislation is purely permissive and would leave up to the three services their degree of participation under it, Dr. Berry on balance has favored such legislation. I concur in Dr. Berry's view that the enactment of H. R. 483 is desirable so long as the legislation is considered to be authorizing only and not mandatory. If the permissive features of the bill were eliminated I would object to its enactment, as the possible difficulties pointed out by the Surgeons General might well exceed any possible good that could come from it.

PERMISSIVE NATURE OF THE AUTHORITY OF BILL

The authority contained in H. R. 483 authorizing the appointments of doctors of osteopathy as medical officers is permissive in nature. The President therefore has the discretion to make such appointments only in such numbers and subject to such qualifications as he in his discretion may prescribe. The permissive nature of this authority, together with the inherent control of the military departments over military assignments and duties, is sufficient to meet any of the administrative problems in the military services caused by the appointment of doctors of osteopathy. It should also be noted that the bill does not alter the language now contained in the Medical Officer Procurement Act which authorizes the Secretaries of the departments to prescribe qualifications for civilian doctors of medicine and dentistry. Doctors of osteopathy would also be subject to such qualifications as the Secretaries may prescribe.

The committee is aware that the licensing procedures for doctors of osteopathy vary considerably among the 48 States and that in some States they are not eligible to receive an unlimited license to practice medicine and surgery. It should be emphasized that in considering the qualifications of doctors of osteopathy for both appointments under this bill and their duty assignments in the military service, the President and the military departments have complete discretion in taking into account the varying licensing practices.

DESCRIPTION OF COLLEGES OF OSTEOPATHY

There are six colleges of osteopathy in the United States, all nonprofit, tax-exempt, and approved by the American Osteopathic Association, the Veterans' Administration, and the Public Health Service. They are located in Chicago, Ill., Los Angeles, Calif., Des Moines, Iowa, Kansas City, Mo., Kirksville, Mo., and Philadelphia, Pa.

In the fall of 1955, 1,883 students were enrolled in the osteopathic colleges. The freshmen class received preprofessional training in colleges and universities in 40 States, Hawaii, and the District of Columbia. Of those entering 75 percent had received baccalaureate or advanced degrees. A minimum of 3 years of preprofessional training is required in a nationally accredited college or university. In 1955 there were 459 graduates.

In the schools of osteopathy the professional course of training is 4 years. The committee received testimony that the curriculums of colleges of osteopathy and surgery include all subjects taught in present-day schools of medicine.

During the past 5 years, there was an average of 462 osteopathic graduates annually. Eighty-four hospitals are approved for intern training by the American Osteopathic Association, and many osteopathic graduates take residency training in some 42 approved residency training hospitals in such specialties as surgery, obstetrics, neurosurgery, neuropsychiatry.

In a number of States doctors of osteopathy are eligible to receive a license to practice medicine and surgery after passing the required examinations. Information received by the committee indicated that doctors of osteopathy as a group compared favorably with doctors of medicine in certain States with respect to passing the examination for medicine and surgery.

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A report of the results of the examination by the State medical examining boards in 1953 on page 452 of the Journal of the American Medical Association, dated May 29, 1954, shows that 96.2 percent of the graduates of approved medical schools passed State board examinations and that 86.10 percent of the graduates of osteopathic colleges also passed, compared with only 29.8 percent of the graduates of non-approved medical schools and 54.5 percent of the graduates of foreign medical schools.

EFFECT OF BILL ON DOCTORS' DRAFT

Under the existing rules of the executive branch with respect to the doctor draft legislation, only doctors of medicine have been made subject to induction for the purpose of meeting the needs of the Medical Corps. The pool of physicians and dentists, who are not otherwise subject to the regular draft laws, is becoming rapidly exhausted. If the President by Executive order should choose to make doctors of osteopathy subject to the doctor draft laws, an estimated 2,500 to 3,000 would be available for special registration and possible induction into the armed services.

BUDGET DATA—DEPARTMENTAL RECOMMENDATIONS

The Department of Defense recommends enactment of the proposed legislation and the Bureau of the Budget interposes no objection, as indicated by the following letters.

DEPARTMENT OF THE ARMY,
Washington, D. C., May 20, 1955.

Hon. CARL VINSON,
Chairman, Committee on Armed Services,
House of Representatives.

DEAR MR. CHAIRMAN: This will reply to the request for the views of the Department of Defense concerning H. R. 483, a bill to amend the Army-Navy-Public Health Service Medical Officer Procurement Act of 1947, as amended, so as to provide for appointment of doctors of osteopathy in the Medical Corps of the Army and Navy.

This proposal, if enacted, would authorize the appointment of osteopaths in the Medical Corps of the Army and Navy and for designation as medical officers in the Air Force. While the proposal refers specifically to the Army and the Navy, it would apply to the Air Force by virtue of section 307 of the Air Force Organization Act (10 U. S. C. 1837).

The Department of Defense is in accord with the purposes of this bill because it would help to alleviate the shortage of medical personnel within the Department of Defense. It is understood that there are approximately 6,500 osteopaths in the United States fully licensed to practice medicine and surgery who have taken the regular State board examinations in 1 of 35 States or the Territory of Hawaii. Since each State possesses the power to license the practice of medicine and this group of osteopaths have conformed with the requirements in their respective States and have been certified by these States, the Department of Defense believes that it would be desirable to have the authority to secure the benefit of their needed skills in the Armed Forces.

Selective Service has experienced considerable difficulty in utilizing the skills of fully licensed osteopaths when they are drafted. Since the Armed Forces, at the present time, are appointing many aliens who are graduates of foreign medical schools to the medical branch of the services, it does not appear prudent that graduates of osteopathic medical schools which are analogous, and in some cases superior to these foreign schools, should not be available to the Armed Forces. Additionally, it should be noted that the Public Health Service and the Veterans' Administration are utilizing graduates of these schools who are also licensed to practice medicine and surgery, at least on a limited basis.

While the Department of Defense supports this bill, it recommends that the following technical change be made. On page 2, line 7, the phrase "or osteopathy" should be changed to "and osteopathy." The word "or" would indicate an alternative situation whereas it is believed the intent is that in order to be eligible for appointment for medical service the graduates of colleges of osteopathy must be "licensed to practice medicine, surgery and osteopathy."

Subject to the technicality noted above, the Department of Defense concurs in H. R. 483.

The Bureau of the Budget advises that it has no objection to the submission of this report to the Congress.

Sincerely yours,

(Signed) ROBERT T. STEVENS,
Secretary of the Army.

THE SECRETARY OF DEFENSE,
Washington, April 24, 1956.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
United States Senate.

DEAR MR. CHAIRMAN: Referring to your March 23 letter respecting H. R. 483, which concerns doctors of osteopathy, your letter makes clear the awareness of your committee of the fact that there are differing counsels on this legislation within the Department of Defense. On checking into the situation, I find that the Surgeons General of the three services have in effect opposed the enactment of the bill, foreseeing difficulties of varying proportions of seriousness should this legislation become law. The Assistant Secretary of Defense for Health and Medical matters, Dr. Frank B. Berry, has supported the measure, believing that to some degree it would help us in the problem of providing certain medical care for the armed services. His position is also influenced by certain precedents in other branches of the Government.

Through previous legislation the Veterans' Administration and the Public Health Service have been given the authority proposed in the bill. The Navy already has similar authority in regard to doctors of osteopathy who shall be utilized in the practice of osteopathy but they have never commissioned such an officer. Also, osteopaths and students of osteopathy are on the list provided by the Department of Labor as essential occupations.

Dr. Berry checked with the Veterans' Administration and learned that they have a very few doctors of osteopathy and that there is one in the Public Health Service. He understands they are being well

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utilized and it is not believed that they have caused any ill feeling nor has there been discrimination against them. Furthermore, graduates of schools of osteopathy participate in the home-care program of the Veterans' Administration.

Since the legislation is purely permissive and would leave up to the three services their degree of participation under it, Dr. Berry on balance has favored such legislation. I concur in Dr. Berry's view that the enactment of H. R. 483 is desirable so long as the legislation is considered to be authorizing only and not mandatory. If the permissive features of the bill were eliminated I would object to its enactment, as the possible difficulties pointed out by the Surgeons General might well exceed any possible good that could come from it.

Sincerely,

C. E. WILSON.

CHANGES IN EXISTING LAW

In accordance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows: Existing law in which no change is proposed is shown in roman, new matter is printed in italics.

ARMY-NAVY-PUBLIC HEALTH SERVICE MEDICAL OFFICER PROCUREMENT ACT OF 1947, AS AMENDED

SEC. 201. (a) Subject to any limitation on the commissioned strength of the Army, Navy, and Air Force prescribed by law, the President, by and with the advice and consent of the Senate, may make appointments in permanent grades of first lieutenant through colonel in the Medical and Dental Corps of the Regular Army, lieutenant (junior grade) through captain in the Medical and Dental Corps of the Regular Navy, and first lieutenant through colonel for officers appointed with a view to designation as medical officers or dental officers in the Regular Air Force, in such numbers as the needs of the services may require. Such appointments shall be made only from (*1*) qualified doctors of medicine and doctors of dentistry who are citizens of the United States and who have such other qualifications as the Secretary concerned may prescribe for his service, *or* (*2*) *doctors of osteopathy who are qualified under subsection* (*g*) *hereof.*

(b) The doctors of medicine *or osteopathy* and doctors of dentistry appointed under this Act shall be credited for purposes of determining lineal position, permanent grade, position on a promotion list, seniority in permanent grade, and eligibility for promotion with the amount of service prescribed by the Secretary concerned, but not less than the minimum prescribed below. A doctor of medicine *or osteopathy* or doctor of dentistry appointed under this Act upon graduation from medical, *osteopathic* or dental school may not be credited with less than four years' service. A doctor of medicine *or osteopathy* appointed under this Act who has completed a one-year internship, or the equivalent thereof, may not be credited with less than five years' service.

(e) Notwithstanding any other provision of law, including those relating to selection for promotion, a doctor of medicine *or osteopathy* or a doctor of dentistry who is appointed under this Act or any other provision of law may be temporarily promoted to the grade of captain

in the Army or the Air Force, or lieutenant in the Navy, as the case may be, at any time after one year after completion of medical or dental school.

(g) to be eligible for appointment under this Act a doctor of osteopathy must (1) be a citizen of the United States, (2) be a graduate of a college of osteopathy whose graduates are eligible for licensure to practice medicine or surgery in a majority of the States, and be licensed to practice medicine, surgery, or osteopathy in one of the States or Territories of the United States or in the District of Columbia, (3) be recommended for such appointment by the Surgeon General of the Army or Air Force or the Chief of the Bureau of Medicine and Surgery of the Navy, (4) possess such qualifications as the Secretary concerned may prescribe for his service, and (5) under regulations prescribed by the Secretary of Defense have completed a number of years of osteopathic and preosteopathic education equal to the number of years of medical and premedical education prescribed for persons entering recognized schools of medicine who became doctors of medicine and who would be qualified for appointment under this title in the grade for which such doctor of osteopathy is applying.

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Calendar No. 1890

84TH CONGRESS } SENATE { REPORT
2d Session } { No. 1870

PROVIDING FOR THE REGULATION OF THE INTERSTATE TRANSPORTATION OF MIGRANT FARMWORKERS

APRIL 26, 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 3391]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 3391) to provide for the regulation of the interstate transportation of migrant farmworkers, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

S. 3391 would give the ICC authority to adopt suitable regulations for the comfort and safety of migrant farmworkers transported in interstate commerce by allowing regulation of equipment and its operation. The main evils sought to be corrected are the transportation of migrant farmworkers by their employers, or by labor contractors engaged in recruiting and furnishing workers. These furnish transportation as an incident to their business of recruiting workers. Even when the worker pays a fee for the service, this transportation is construed to be private carriage of passengers not subject to the terms of the Interstate Commerce Act.

BACKGROUND INFORMATION

S. 3391 deals with a longstanding problem. The President's Committee on Migratory Labor has drawn up model regulations for States pertaining to transportation and living conditions for migrant farmworkers who are often carried long distances by private motor vehicles, many times in unsafe open trucks, under crowded, unsanitary conditions. There is no existing authority for adoption of similar regulations for control of interstate transportation of workers by private

carriers. Private carriers of passengers in interstate commerce are not subject to either economic or safety regulation by the ICC.

Studies of the migratory labor problem, made both by private and public agencies, have pointed out the danger as well as the discomfort connected with the practice of hauling these workers over long distances by trucks. President Truman's Commission on Migratory Labor in its report in 1951, based on investigations and public hearings, pointed out that although migratory farmworkers travel long distances to get employment, very few of them use the bus or train as a means of transportation. In the ordinary sense of the word, they do not travel; most of them are hauled. And the mode of hauling is usually the truck supplied by employers, by labor contractors, or by crew leaders.

Whether supplied by contractors or employers, the trucks used to carry migratory workers frequently are old and dilapidated and generally unfit for carrying people. There have been many accidents to trucks loaded with migratory workers which would not have happened had the driver not been exhausted from continuous driving or had the truck been in proper mechanical repair. In many cases no rest stops are made even though the trip requires 36 hours or more. One reason why trucks carrying workers come straight through from points of origin to points of destination is that there are no accommodations for rest stops en route.

Much of the transportation of farmworkers involves crossing State lines. But since it is mostly by private carrier, it is not subject to the jurisdiction of the Interstate Commerce Commission. The latter regulates interstate transportation of passengers only when it is conducted by rail or common and contract motor carrier. As a result, the large traffic in migratory workers and their families is presently beyond the scope of public control, except as it is imposed by State vehicular and traffic laws.

The standard work contract drawn up pursuant to the migrant labor agreement of 1951 with Mexico, providing living, working, and transportation conditions for Mexican farmworkers in the United States, prescribes transportation conditions for these foreign workers that are apparently superior to conditions under which many American migratory workers are transported within the United States.

EFFECT OF LEGISLATION

The legislation is drawn for the specific purpose of remedying the evils of transportation of migrant workers in interstate commerce.

The definition of a "carrier of migrant workers by motor vehicle" is patterned after the definition of a "private carrier" contained in the regulations proposed by the President's Committee on Migratory Labor for adoption by the States.

Common carriers by motor vehicle generally subject to ICC regulation are excluded in the definition. The bill does not apply to workers transporting their "immediate" families or to transportation of migrant workers in passenger automobiles or station wagons, thereby excluding "car pools." The definition of a "carrier of migrant workers" to apply to those transporting 3 or more passengers is designed to prevent regulation of a truck operator who transports 1 or 2 friends or neighbors or an occasional hitchhiker in the cab of his

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truck. Contract carriers are included in the definition because present authority of the ICC over these carriers applies to safety, accounts and records, and employment conditions, but not to comfort of passengers.

Definition of "migrant workers" in the bill is based on the concept used in the Fair Labor Standards Act and the Internal Revenue Code and is employed in agriculture under the Mexican farm labor program.

S. 3391 would exclude transportation of migrant workers from the scope of the exemptions of section 203 (b) of the Interstate Commerce Act.

The bill maintains the status quo on overtime benefits under the Fair Labor Standards Act. Those workers for which ICC has authority to establish qualification and maximum hours of service are exempt from overtime requirements generally, but the bill prevents such exemption from applying to drivers of trucks carrying migrant workers made subject to regulation by S. 3391. Those workers whose qualifications and hours of service are presently subject to ICC control will not be affected.

The Department of Labor and the Interstate Commerce Commission favor the legislation.

CONCLUSIONS

The committee believes that the enactment of S. 3391 will be an important step in providing for reasonable safety and comfort in the transportation of migratory farmworkers that are essential to harvesting the farm crops of the Nation.

The committee further believes that the power given the Interstate Commerce Commission for this purpose is commensurate with the need for such regulation.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (new matter is printed in italics):

THE INTERSTATE COMMERCE ACT

PART II * * *

SEC. 203. (a) * * *

(22) The term "carrier of migrant workers by motor vehicle" means any person, including any "contract carrier by motor vehicle", but not including any "common carrier by motor vehicle", who or which transports in interstate or foreign commerce at any one time three or more migrant workers to or from their employment by any motor vehicle other than a passenger automobile or station wagon, except migrant workers transporting themselves or their immediate families.

(23) The term "migrant worker" means any individual proceeding to or returning from employment in agriculture as defined in section 3 (f) of the Fair Labor Standards Act of 1938, as amended (29 U. S. C. 203 (f)), or section 3121 (g) of the Internal Revenue Code of 1954 (26 U. S. C. 3121 (g)).

* * * * * * *

SEC. 204. (*a*) * * *

* * * * * * *

(*3a*) *Notwithstanding any other provision of section 203* (*b*), *to establish for carriers of migrant workers by motor vehicle reasonable requirements with respect to comfort of passengers, qualifications and maximum hours of service of operators, and safety of operation and equipment. When such requirements are established, the term "motor carrier" shall be construed to include carriers of migrant workers by motor vehicle in the administration of sections 204* (*c*); *205; 220; 221; 222* (*a*), (*b*), (*d*), (*f*) *and* (*g*); *and 224.*

Section 3 of the bill provides for an exception from section 13 (b) (1) of the Fair Labor Standards Act, as amended. That section reads as follows:

(b) The provisions of section 7 shall not apply with respect to (1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935.

NOTE.—This provision does not apply in the case of any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service solely by virtue of section 2 of the bill.

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Calendar No. 1892

84TH CONGRESS, 2d Session } SENATE { REPORT No. 1871

REQUIRING INSPECTION OF CERTAIN VESSELS CARRYING PASSENGERS

APRIL 26, 1956.—Ordered to be printed

Mr. PURTELL, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 3072]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 3072) to require the inspection and certification of certain vessels carrying passengers, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendments are as follows:

Page 2, line 6, delete the word "or"

Page 2, line 9, delete the period and insert in lieu thereof a semicolon and the following:

> or (6) any person on board a vessel documented and used for tugboat or towboat service of fifty gross tons or more who has not contributed any consideration, directly or indirectly, for his carriage.

Page 2, lines 10 to 25, inclusive, delete in entirety and insert in lieu thereof the following:

> (b) The term "passenger-carrying vessel" means any vessel which carries more than six passengers, and which is (1) propelled in whole or in part by steam or by any form of mechanical or electrical power and is of fifteen gross tons or less; (2) propelled in whole or in part by steam or by any form of mechanical or electrical power and is of more than fifteen and less than one hundred gross tons and not more than sixty-five feet in length measured from end to end over the deck excluding sheer; (3) propelled by sail and is of seven hundred gross tons or less; or (4) non-self-propelled and is of one hundred gross tons or less; except any public vessel of the United States or of any foreign state, or any lifeboat form-

ing part of a vessel's lifesaving equipment. The term includes (1) any domestic vessel operating on the navigable waters of the United States, or on the high seas outside of those waters and within the normal operating range of the vessel, and (2) any foreign vessel departing from a port of the United States.

Page 3, lines 6 to 8, inclusive, delete in entirety.

Page 3, line 9, delete "(e)" and insert in lieu thereof "(d)".

Page 3, line 13, delete the words "having a capacity to carry more than 6 passengers."

Page 6, lines 4 to 8, inclusive, delete in entirety.

Page 6, line 9, delete "SEC. 7" and insert in lieu thereof "SEC. 6".

Page 6, line 15, delete the words, "or like character" and insert in lieu thereof "of like character".

Page 7, line 23, delete the word "affected" and insert in lieu thereof "effected".

Page 9, lines 10, 13, 17, and 20, respectively, delete "SEC. 8", "SEC. 9", "SEC. 10", and "SEC. 11" and insert in lieu thereof, "SEC. 7", "SEC. 8", "SEC. 9", and "SEC. 10", respectively.

PURPOSE OF THE BILL

The purpose of this bill, as amended, is to require that certain vessels which carry more than 6 passengers for hire shall be subject to inspection and certification by the United States Coast Guard in the interest of safety. The smaller types of commercial passenger-carrying vessels, such as party fishing boats and small excursion craft, are not now subject to inspection and certification as to seaworthiness. At present the law only requires that mechanically propelled vessels of 15 gross tons and less, carrying passengers for hire, shall be subject to minimum safety requirements. Similarly, sail vessels of 700 gross tons or less and non-self-propelled vessels of 100 gross tons or less must conform only to the very minimum of safety standards.

While the provisions of the Motorboat Act of 1940 and the regulations thereunder are considered to be necessary minimum for pleasure craft, they are deemed to be wholly inadequate for the safety of motor vesse'ls carrying passengers for hire. Yet, there are in the United States well over 8,000 small passenger-carrying vessels of less than 15 gross tons which are not subject to inspection. Two of the most tragis accidents of recent years occurred off Montauk Point, Long Island, in 1951, involving uninspected vessels of this category, resulting in the loss of 56 lives.

The first of these casulaties occurred on June 10, 1951, to the uninspected gasoline-propelled motorboat *Jack*, powered with a 40-horsepower motor. The vessel, which was 33 feet in length and of 9 gross tons burden, had been built in 1912 and was purchased by the owner and operator in June 1950. Even though the vessel was found to be structurally defective after its purchase, no effective repairs were made. At the time of the accident, the vessel, with 13 passengers aboard, departed for a fishing excursion, notwithstanding the broadcast of small-craft warnings. Before she could return to port the *Jack* opened up and almost immediately foundered, with the loss of 11 lives, The Marine Board of Investigation found that the hull

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was in poor condition, and had the vessel been subject to inspection, a certificate of inspection would not have been issued.

The second of these tragedies occurred in September 1951, and involved the motorboat *Pelican* which had been built in 1940 for service as a passenger-carrying vessel in the fishing and recreation business. Since she admeasured only 14 gross tons, she was not subject to annual inspection and certification under the law. Hence, she could be legally operated in the passenger-carrying business without adequate supervision with respect to safety standards.

On the day of the accident the *Pelican* embarked for a fishing excursion with 2 crew members and 62 passengers in the face of impending-bad-weather warnings. The Commandant of the Coast Guard testified that a boat of the *Pelican's* dimensions and type could not ordinarily be expected to carry more than about 30 persons with safety in the service in which she was engaged. After confronting worsening weather conditions it was decided to return to port, but due to difficulty with the propulsive machinery, she made only 6 miles in 2½ hours. While rolling heavily, two successive heavy seas hit the *Pelican*, causing her to capsize. Forty-five lives were lost. Investigation of the disaster disclosed that, although life preservers were located in 2 lockers on the deck of the vessel and were accessible with 1 exception, no life preservers were worn by anyone, due to the suddenness of the capsizing and the lack of safety instructions from the operator. Measurements of the deck space available for passengers disclosed that had the *Pelican* been subject to Coast Guard inspection, she probably would have been permitted to carry not more than 20 passengers.

As a result of these two casualties, Senator Purtell, of Connecticut, introduced S. 2072 in the 1st session of the 83d Congress. Subsequent to the preparation of the legislation, the tragic foundering of the sailing vessel, *Levin J. Marvel*, in the Chesapeake Bay in August 1955 pointed up the need for requiring inspection and certification.

The *Levin J. Marvel* was a wooden sail vessel of 183 gross tons, built in 1891 at Bethel, Del. In recent years the vessel was used in carrying passengers for hire on pleasure voyages in the Chesapeake Bay area. Existing law and regulations did not require inspection of such sailing vessles of less than 700 gross tons. None of the crew had any certificates of competency from the Coast Guard, nor were they required to have such certificates under the law. This vessel would not have been permitted to operate in the service in which she was engaged if she had been subject to Coast Guard inspection.

It was clear from the testimony presented during the hearings in the House on H. R. 7952 that adequate inspection of small passenger-carrying vessels is needed, because existing requirements are insufficient to provide safeguards against the causes of most marine casualties, i. e., (1) lack of seaworthiness, and (2) overloading. In the words of the Commandant of the Coast Guard, "Lack of seaworthiness and overloading have been the basic causes of some of the more serious casualties—among the small uninspected passenger-carrying vessels." During the course of the hearings, statistics were introduced to show that, in recent years, casualties on inspected vessels have been relatively minor as compared with those on uninspected vessels. In the light of this background, your committee believes that lack of adequate inspection standards for small craft have largely contributed to un-

necessary loss of human life. It, therefore, considers that the bill, S. 3072, as amended, should be enacted into law.

Estimates show that in 1955 as many as 25 million persons participated in recreational boating throughout the country. Some concern was evidenced over the fact that the bill does not cover all vessels carrying passengers, and advocated that Federal inspection extend to "any boat for hire." While your committee is in accord with the principle that the broadest possible coverage is desirable, it does not deem it feasible at this time to recommend that Federal inspection be extended to those vessels which carry six passengers or less. However, it is believed that State and municipal governments should devote more attention to the adequacy of their own laws relating to motor boat inspection, particularly since small-boat operation probably represents the largest segment of comparatively unregulated traffic in the country.

ANALYSIS OF BILL AND AMENDMENTS

In order to make provision for inspection of certain sail vessels and barges, your committee has adopted several amendments designed to accomplish broader coverage than the bill, as introduced, which applied only to "mechanically propelled" vessels. Hence, as amended, the bill would require inspection and certification of—

(1) mechanically propelled vessels of 15 gross tons and less, and those of more than 15 gross tons and less than 100 gross tons that do not exceed 65 feet in length;

(2) sail vessels of 700 gross tons and less;

(3) barges of 100 gross tons and less.

The bill as amended excepts from the definition of a passenger-carrying vessel, any public vessel of the United States or of any foreign state, or any lifeboat forming part of a vessel's lifesaving equipment.

Amendments were also made on page 6, line 15, and page 7, line 23, to correct typographical errors.

It should be noted that the inspection envisioned is to be administered triannually, and applies only to those vessels which carry more than six passengers for hire.

Analysis of several of the more important sections of the bill, as amended, follows:

Section 1 (a) defines "passenger" as every person carried on board a passenger-carrying vessel with certain exceptions. Among those excluded are the owner or his representative, the master and members of the crew, certain employees of the owner or bareboat chartered, nonpaying guests when the boat is used exclusively for pleasure purposes, and nonpaying persons on board certain vessels documented and used for tugboat or towboat services. The latter category was added in order to exempt from inspection certain tugboats and towboats which occasionally carry more than six nonpaying guests for such purposes as harbor and dock inspection trips.

Section 2 (a) provides for an inspection at least once every 3 years. This subsection does not prevent more frequent inspections, as circumstances may require.

Section 3 vests in the Secretary certain rulemaking authority to determine standards designed to make the vessel safe with respect to

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its condition, type of operation, number of passengers, manning requirements, and qualifications of its operators and crew.

Section 4 (a) prohibits the operation of a passenger-carrying vessel until a certificate of inspection has been issued to the vessel indicating compliance with the act or rules and regulations established thereunder.

Subsection (b) requires that when such certificate is issued, the vessel shall continue in full compliance thereof.

Section 5 imposes a civil penalty of not more than $1,000 for each violation of the act or the rules and regulations established thereunder, upon any owner, master, or person in charge of a vessel subject to inspection. In case the penalty imposed is not satisfied, provision is made for the vessel's seizure.

Section 6 was deleted by your committee as being unnecessary

Section 7 (a) repeals the act of January 18, 1897 (29 Stat. 489; 46 U. S. C. 520), entitled, "An Act providing for certain requirements for vessels propelled by gas, fluid, naphtha, or electric motors," as being obsolete. The provision of this law have been superceded by and incorporated into subsequent laws.

Subsection (b) would except mechanically propolled vessels more than 15 gross tons and not more than 65 feet in length, carrying more than six passengers, from section 4426 of the Revised Statutes, as amended (34 Stat. 193; 46 U. S. C., 404). This was done in order that such vessels would be subject to the full provisions of inspection and certification as provided in S. 3072.

Subsection (c) amends section 7 of the act of April 25, 1940, as amended (54 Stat. 165; 46 U. S. C. 526f), in order to extend provisions of law concerning operators' licenses for motorboats carrying passengers for hire to cover vessels propelled by machinery other than steam of 15 gross tons or less, which are more than 65 feet in length.

The departmental report is as follows:

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, February 13, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your letter of January 30, 1956, acknowledged January 31, enclosing a copy of S. 3072, 84th Congress, and inviting any comment we may care to offer concerning the proposed legislation.

S. 3072 is substantially similar to H. R. 5570, H. R. 7952, and H. R. 8267, 84th Congress, and, in a lesser degree, to S. 2072 and H. R. 8195, 83d Congress, and H. R. 7448, 82d Congress. As indicated in our report to your committee dated June 19, 1953, in connection with S. 2072, 83d Congress, the General Accounting Office in carrying out its official responsibilities has not acquired any special information with respect to the subject matter of this bill. Accordingly, and since the bill does not involve the work of our Office, we are not in a position to make any comments with respect to the merits of S. 3072 or to make any recommendation regarding its enactment.

As requested, this report is forwarded in triplicate.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

90002°—57 S. Rept., 84-2, vol. 2——87

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

ACT OF JANUARY 18, 1897

(29 Stat. 489; 46 U. S. C. 520)

AN ACT Providing for certain requirements for vessels propelled by gas, fluid, naphtha, or electric motors

[That all vessels of above fifteen tons burden, carrying freight or passengers for hire, propelled by gas, fluid, naphtha, or electric motors, shall be, and are hereby, made subject to all the provisions of section forty-four hundred and twenty-six of the Revised Statutes of the United States, relating to the inspection of hulls and boilers and requiring engineers and pilots; and all vessels so propelled, without regard to tonnage or use, shall be subject to the provisions of section forty-four hundred and twelve of the Revised Statutes of the United States, relating to the regulation of steam vessels in passing each other; and to so much of sections forty-two hundred and thirty-three and forty-two hundred and thirty-four of the Revised Statutes, relating to lights, fog signals, steering, and sailing rules, as the Board of Supervising Inspectors shall, by their regulations, deem applicable and practicable for their safe navigation.]

SECTION 4426 OF THE REVISED STATUTES, AS AMENDED

(34 Stat. 193, U. S. C., 1952 ed., supp. 2, title 46, sec. 404)

4426. The hulls and boilers of every ferryboat, canal boat, yacht, or other small craft of like character propelled by steam, shall be inspected under the provisions of [title 52 of the Revised Statutes.] *this title.* Such other provisions of law for the better security of life as may be applicable to such vessels shall, by the regulations of the [Commandant of the Coast Guard,] *Secretary of the department in which the Coast Guard is operating*, also be required to be complied with before a certificate of inspection shall be granted, and no such vessel shall be navigated without a licensed engineer and a licensed pilot: *Provided*, [however,] That in open steam launches of ten gross tons and under, one person, if duly qualified, may serve in the double capacity of pilot and engineer. All vessels of above fifteen gross tons carrying freight [or passengers] for hire, *and all vessels of above fifteen gross tons and in excess of sixty-five feet in length carrying passengers for hire*, but not engaged in fishing as a regular business, propelled by gas, fluid, naphtha, or electric motors, shall be subject to all the provisions of this section relating to the inspection of hulls and boilers and requiring engineers and pilots, and for any violation of the provisions of title 52 of the Revised Statutes applicable to such vessels, or of rules or regulations lawfully established thereunder, and to the extent to which such provisions of law and regulations are so applica-

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ble, the said vessels, their masters, officers, and owners shall be subject to the provisions of sections [494–498 of this title,] *4496, 4497, 4498, 4499, and 4500 of the Revised Statutes, as amended (46 U. S. C. 494–498)*, relating to the imposition and enforcement of penalties and the enforcement of law: *Provided, however,* That until June 30, 1956, no vessel registered or licensed as a vessel of the United States of fifteen gross tons or less on December 31, 1953, shall be deemed to be subject to the inspection provisions of this section notwithstanding the fact that such vessel may thereafter be found to have a tonnage in excess of fifteen gross tons, unless such finding results from an alteration in the length, breadth, or depth effected after December 31, 1953. [All vessels of fifteen gross tons or less propelled in whole or in part by gas, gasoline, petroleum, naphtha, fluid, or electricity, and carrying passengers for hire, shall carry one life preserver, of the sort prescribed by the regulations of the Commandant of the Coast Guard, for every passenger carried, and no such boat while so carrying passengers shall be operated or navigated except in charge of a person duly licensed for such service by the Coast Guard. No examination shall be required as a condition of the obtaining of such a license, and any such license shall be revoked or suspended by the Coast Guard for misconduct, gross negligence, recklessness in navigation, intemperance, or violation of law on the part of the holder, and if revoked, the person holding such license shall be incapable of obtaining another such license for one year from the date of revocation. (As amended Aug. 31, 1954, ch. 1171, 68 Stat. 1047.)]

SECTION 7 OF THE ACT OF APRIL 25, 1940, AS AMENDED

(54 Stat. 165, U. S. C., 1952 ed., title 46, sec. 526f)

SEC. 7. No such motorboat, *and no other vessel of fifteen gross tons or less propelled by machinery other than steam,* while carrying passengers for hire, shall be operated or navigated except in charge of a person duly licensed for such service by the [Coast Guard.] *Secretary of the department in which the Coast Guard is operating.* Whenever any person applies to be licensed as operator of any motorboat, *or of any other vessel of fifteen gross tons or less propelled by machinery,* carrying passengers for hire, the [Coast Guard] *Secretary* shall make diligent inquiry as to his character, and shall carefully examine the applicant orally as well as the proofs which he presents in support of his claim, and if [it] *the Secretary* is satisfied that his capacity, experience, habits of [life] *living,* and character are such [as] to warrant the belief that he can safely be entrusted with the duties and responsibilities of the station for which he makes application, [it] *the Secretary* shall grant him a license authorizing him to discharge such duties on any such motorboat, *or on any other vessel of fifteen gross tons or less proppelled by machinery,* carrying passengers for hire, for the term of five years. Such license shall be subject to suspension or revocation on the same grounds and in the same manner [and] with like procedure as is provided in the case of suspension or revocation of licenses of officers under the provisions of section [239] *4450* of [this title] *the Revised Statutes, as amended (U. S. C. 1952 edition, title 46, sec. 239)*: *Provided,* That motorboats *and other vessels of fifteen gross tons or less*

propelled by machinery shall not be required to carry licensed officers except as required in this [subchapter] *Act: And provided further*, That licenses herein prescribed shall not be required of motorboats *or of any other vessels of fifteen gross tons or less propelled by machinery* engaged in fishing contests previously arranged and announced.

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Calendar No. 1893

84TH CONGRESS, 2d Session | SENATE | REPORT No. 1872

REQUIRING INSPECTION OF CERTAIN VESSELS CARRYING PASSENGERS

APRIL 26, 1956.—Ordered to be printed

Mr. PURTELL, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 7952]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 7952) to require the inspection and certification of certain vessels carrying passengers, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of this bill is to require that certain vessels which carry more than 6 passengers for hire shall be subject to inspection and certification by the United States Coast Guard in the interest of safety. The smaller types of commercial passenger-carrying vessels, such as party fishing boats and small excursion craft, are not now subject to inspection and certification as to seaworthiness. At present the law only requires that mechanically propelled vessels of 15 gross tons and less, carrying passengers for hire, shall be subject to minimum safety requirements. Similarly, sail vessels of 700 gross tons or less and non-self-propelled vessels of 100 gross tons or less must conform only to the very minimum of safety standards.

While the provisions of the Motorboat Act of 1940 and the regulations thereunder are considered to be necessary minimums for pleasure craft, they are deemed to be wholly inadequate for the safety of motor vessels carrying passengers for hire. Yet, there are in the United States well over 8,000 small passenger-carrying vessels of less than 15 gross tons which are not subject to inspection. Two of the most tragic accidents of recent years occurred off Montauk Point, Long Island, in 1951, involving uninspected vessels of this category, resulting in the loss of 56 lives.

The first of these casualties occurred on June 10, 1951, to the uninspected gasoline-propelled motorboat *Jack*, powered with a 40-horsepower motor. The vessel, which was 33 feet in length and of 9 gross tons burden, had been built in 1912 and was purchased by the owner and operator in June 1950. Even though the vessel was found to be structurally defective after its purchase, no effective repairs were made. At the time of the accident, the vessel, with 13 passengers aboard, departed for a fishing excursion, notwithstanding the broadcast of small-craft warnings. Before she could return to port the *Jack* opened up and almost immediately foundered, with the loss of 11 lives. The Marine Board of Investigation found that the hull was in poor condition, and had the vessel been subject to inspection, a certificate of inspection would not have been issued.

The second of these tragedies occurred in September 1951, and involved the motorboat *Pelican* which had been built in 1940 for service as a passenger-carrying vessel in the fishing and recreation business. Since she admeasured only 14 gross tons, she was not subject to annual inspection and certification under the law. Hence, she could be legally operated in the passenger-carrying business without adequate supervision with respect to safety standards.

On the day of the accident the *Pelican* embarked for a fishing excursion with 2 crew members and 62 passengers in the face of empending-bad-weather warnings. The Commandant of the Coast Guard testified that a boat of the *Pelican's* dimensions and type could not ordinarily be expected to carry more than about 30 persons with safety in the service in which she was engaged. After confronting worsening weather conditions it was decided to return to port, but due to difficulty with the propulsive machinery, she made only 6 miles in 2½ hours. While rolling heavily, two successive heavy seas hit the *Pelican*, causing her to capsize. Forty-five lives were lost. Investigation of the disaster disclosed that, although life preservers were located in 2 lockers on the deck of the vessel and were accessible with 1 exception, no life preservers were worn by anyone, due to the suddenness of the capsizing and the lack of safety instructions from the operator. Measurements of the deck space available for passengers disclosed that had the *Pelican* been subject to Coast Guard inspection, she probably would have been permitted to carry not more than 20 passengers.

As a result of these two casualties, several bills were proposed to Congress, calling for increased safety and inspection requirements on small mechanically propelled passenger-carrying vessels for hire. H. R. 7952 evolved from these early bills. Subsequent to the preparation of the legislation, the tragic foundering of the sailing vessel *Levin J. Marvel* in the Chesapeake Bay in August 1955 pointed up the need for requiring inspection and certification of other types of passenger-carrying vessels, such as sailboats and barges. H. R. 8267, introduced by Mr. Lankford, of Maryland, was designed to accomplish this.

The *Levin J. Marvel* was a wooden sail vessel of 183 gross tons, built in 1891 at Bethel, Del. In recent years the vessel was used in carrying passengers for hire on pleasure voyages in the Chesapeake Bay area. Existing law and regulations did not require inspection of such sailing vessels of less than 700 gross tons. None of the crew had any certificates of competency from the Coast Guard, nor were they required

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to have such certificates under the law. This vessel would not have been permitted to operate in the service in which she was engaged if she had been subject to Coast Guard inspection.

In its consideration of the need for additional safety legislation the committee held its hearings on the broad problem and considered both H. R. 7952 and H. R. 8267, finally consolidating the purposes of the two bills in H. R. 7952, as here reported.

It was clear from the testimony that adequate inspection of small passenger-carrying vessels is needed, because existing requirements are insufficient to provide safeguards against the causes of most marine casualties, i. e., (1) lack of seaworthiness, and (2) overloading. In the words of the Commandant of the Coast Guard, "Lack of seaworthiness and overloading have been the basic causes of some of the more serious casualties—among the small uninspected passenger-carrying vessels." During the course of the hearings, statistics were introduced to show that, in recent years, casualties on inspected vessels have been relatively minor as compared with those on uninspected vessels. In the light of this background, your committee believes that lack of adequate inspection standards for small craft have largely contributed to unnecessary loss of human life. It, therefore, considers that the bill, H. R. 7952, as amended, should be enacted into law.

Estimates show that in 1955 as many as 25 million persons participated in recreational boating throughout the country. At the hearings, some witnesses evidenced concern over the fact that the bill does not cover all vessels carrying passengers, and advocated that Federal inspection extend to "any boat for hire." While your committee is in accord with the principle that the broadest possible coverage is desirable, it does not deem it feasible at this time to recommend that Federal inspection be extended to those vessels which carry six passengers or less. However, it is believed that State and municipal governments should devote more attention to the adequacy of their own laws relating to motorboat inspection, particularly since small-boat operation probably represents the largest segment of comparatively unregulated traffic in the country.

During the hearings, the House committee heard from Members of the Congress, representatives of the United States Coast Guard, and the small-boat industry, including private-yacht men. All agreed upon the need for legislation of the kind recommended herein.

Analysis of Bill and Amendments

In order to make provision for inspection of certain sail vessels and barges, the House committee adopted several amendments designed to accomplish broader coverage than the bill, as introduced, which applied only to "mechanically propelled" vessels. Hence, the bill would require inspection and certification of—

(1) mechanically propelled vessels of 15 gross tons and less, and those of more than 15 gross tons and less than 100 gross tons that do not exceed 65 feet in length;

(2) sail vessels of 700 gross tons and less;

(3) barges of 100 gross tons and less.

The bill excepts from the definition of a passenger-carrying vessel, any public vessel of the United States or of any foreign state, or any lifeboat forming part of a vessel's lifesaving equipment.

It should be noted that the inspection envisioned is to be administered triannually, and applies only to those vessels which carry more than six passengers for hire.

Analysis of several of the more important sections of the bill, follows:

Section 1 (a) defines "passenger" as every person carried on board a passenger-carrying vessel with certain exceptions. Among those excluded are the owner or his representative, the master and members of the crew, certain employees of the owner or bareboat charterer, nonpaying guests when the boat is used exclusively for pleasure purposes, and nonpaying persons on board certain vessels documented and used for tugboat or towboat services. The latter category was added in order to exempt from inspection certain tugboats and towboats which occasionally carry more than six nonpaying guests for such purposes as harbor and dock inspection trips.

Section 2 (a) provides for an inspection at least once every 3 years. This subsection does not prevent more frequent inspections, as circumstances may require.

Section 3 vests in the Secretary certain rule making authority to determine standards designed to make the vessel safe with respect to its condition, type of operation, number of passengers, manning requirements, and qualifications of its operators and crew.

Section 4 (a) prohibits the operation of a passenger-carrying vessel until a certificate of inspection has been issued to the vessel indicating compliance with the act or rules and regulations established thereunder.

Subsection (b) requires that when such certificate is issued, the vessel shall continue in full compliance thereof.

Section 5 imposes a civil penaly of not more than $1,000 for each violation of the act or the rules and regulations established thereunder, upon any owner, master, or person in charge of a vessel subject to inspection. In case the penalty imposed is not satisfied, provision is made for the vessel's seizure.

Section 7 (a) repeals the act of January 18, 1897 (29 Stat. 489; 46 U. S. C., 520), entitled, "An Act providing for certain requirements for vessles, propelled by gas, fluid, naphtha, or electric motors," as being obsolete. The provision of this law have been superceded by and incorporated into subsequent laws.

Subsection (b) would except mechanically propelled vessels more than 15 gross tons and not more than 65 feet in length, carrying more than six passengers, from section 4426 of the Revised Statutes, as amended (34 Stat. 193; 46 U. S. C., 404). This was done in order that such vessels would be subject to the full provisions of inspection and certification as provided in H. R. 7952.

Subsection (c) amends section 7 of the act of April 25, 1940, as amended (54 Stat. 165; 46 U. S. C. 526f), in order to extend provisions of law concerning operators' licenses for motorboats carrying passengers for hire to cover vessels propelled by machinery other than steam of 15 gross tons or less, which are more than 65 feet in length.

The Departmental reports submitted to the House Committee on Merchant Marine and Fisheries are as follows:

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TREASURY DEPARTMENT,
Washington, January 25, 1956.

Hon. HERBERT C. BONNER,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to the request of your committee for the views of the Treasury Department on H. R. 7952, to require the inspection and certification of certain mechanically propelled vessels carrying passengers, and H. R. 8267, to require the inspection and certification of certain vessels carrying passengers.

The principal purpose of both H. R. 7952 and H. R. 8267 is to provide for the inspection and certification when carrying more than 6 passengers, of mechanically propelled vessels of 15 gross tons and less and those of more than 15 and less than 100 tons that are not more than 65 feet in length. In addition, H. R. 8267 would provide for the inspection of sail vessels when carrying more than six passengers. There are certain differences in the technical provisions of the two bills.

H. R. 7952 is identical to the draft bill transmitted to your committee with a recommendation for its consideration, by the Secretary of the Treasury by letter dated October 14, 1955. The draft bill was submitted in lieu of a report on H. R. 5570, 84th Congress, that had been requested by your committee.

The sinking of the sail vessel *Levin J. Marvel* in Chesapeake Bay on August 12, 1955, with the loss of 14 lives, points up the need for subjecting to inspection sail vessels of 700 tons and less carrying more than 6 passengers, which are not now required to be inspected. Moreover, it is considered essential to bring under inspection barges of 100 and less carrying more than 6 passengers. These barges are not now required to be inspected. Therefore, it is recommended that H. R. 7952 be amended to include the above-described sail vessels and barges. Proposed amendments to H. R. 7952 to effect this inclusion are set forth in the attached memorandum.

The Treasury Department favors the enactment of H. R. 7952 with the proposed amendments, in lieu of H. R. 8267.

In view of the hearings to be held on the bill, it has not been possible to obtain the customary Bureau of the Budget clearance on the submission of this report.

Very truly yours,

DAVID W. KENDALL,
Acting Secretary of the Treasury.

JANUARY 24, 1956.

MEMORANDUM RE H. R. 7952, TO REQUIRE THE INSPECTION AND CERTIFICATION OF CERTAIN MECHANICALLY PROPELLED VESSELS CARRYING PASSENGERS

It is recommended that H. R. 7952 be amended as follows:

1. The title of H. R. 7952 is amended to read: "A bill to require the inspection and certification of certain vessels carrying passengers."

Explanation.—With the proposed inclusion of sail vessels and barges, the words "mechanically propelled" no longer accurately describe the bill.

2. Section 1 (a) of the bill is amended by deleting the words "mechanically propelled" (line 6, page 1 of the bill), and inserting in lieu thereof the words "passenger-carrying".

Explanation.—With the proposed inclusion of sail vessels and barges in the bill, the words "mechanically propelled" are no longer appropriate.

3. Section 1 (b) of the bill is amended to read as follows:

"(b) The term 'passenger-carrying vessel' means any vessel which carries more than six passengers, and which is—

"(1) propelled in whole or in part by steam or by any form of mechanical or electrical power and is of fifteen gross tons or less;

"(2) propelled in whole or in part by steam or by any form of mechanical or electrical power and is of more than fifteen and less than one hundred gross tons and not more than sixty-five feet in length measured from end to end over the deck excluding sheer;

"(3) propelled by sail and is of seven hundred gross tons or less; or

"(4) non-self-propelled and is of one hundred gross tons or less; except any public vessel of the United States or of any foreign state, or any lifeboat forming part of a vessel's lifesaving equipment. The term includes (1) any domestic vessel operating on the navigable waters of the United States, or on the high seas outside of those waters and within the normal operating range of the vessel, and (2) any foreign vessel departing from a port of the United States."

Explanation.—The *Marvel* disaster has made it clear that certain sail vessels carrying passengers should be brought under inspection and certification. Moreover, certain barges carrying passengers, which are not now subject to inspection, should be brought under inspection. There is a considerable number of these uninspected barges carrying passengers. The sail vessels to be covered by this bill should be limited to those of 700 gross tons or less and the barges to be brought under inspection should be limited to those of 100 gross tons or less. The reason for this is that sail vessels of more than 700 gross tons carrying passengers and barges of more than 100 tons carrying passengers are now subject to inspection under section 4417 of the Revised Statutes. There is no sufficient reason for amending existing law with respect to them.

4. Section 1 (d) of the bill is deleted and section 1 (e) is redesignated as section 1 (d).

Explanation.—In view of language changes proposed herein, section 1 (d) is no longer necessary.

5. Section 2 (a) of the bill is amended by striking the words "mechanically propelled vessel carrying more than six passengers" (lines 12 and 13, p. 3) and inserting in lieu thereof the words "passenger-carrying vessel."

Explanation.—This amendment is required by the changes in the definition of section 1 of the bill.

6. Section 3 of the bill is amended by deleting the words "mechanically propelled vessels carrying passengers" (lines 4 and 5, p. 4), and inserting in lieu thereof "passenger-carrying vessels."

Explanation.—This amendment is required because of the change in definition in section 1 of the bill.

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7. Section 4 (a) of the bill is amended by striking the words "mechanically propelled" (line 22, p. 4) and inserting in lieu thereof the words "passenger-carrying."

Explanation.—This amendment is required because of the change in definition in section 1 of the bill.

THE SECRETARY OF COMMERCE,
Washington, February 1, 1956.

Hon. HERBERT C. BONNER,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in reply to your request of January 12, 1956, for the views of this Department on H. R. 8267, a bill to require the inspection and certification of certain vessels carrying passengers; your request of January 5, 1956, for the views of this Department on H. R. 7952, a bill to require the inspection and certification of certain mechanically propelled vessels carrying passengers; and your request of April 14, 1955, for the views of this Department on H. R. 5570, a bill to require the inspection and certification of certain vessels carrying passengers.

H. R. 8267 would apply to vessels, domestic or foreign, propelled by steam or by any form of mechanical or electrical power, less than 100 gross tons, which are not more than 65 feet in length, and to vessels, domestic or foreign, similarly propelled, of 15 gross tons or less, irrespective of length. The bill would not apply to public vessels of the United States or of a foreign nation and to approved motor lifeboats. The Secretary of the Department in which the Coast Guard is operating would be required to inspect once every 3 years the hull of each such vessel and each vessel propelled primarily by sail carrying more than 6 passengers to satisfy himself that the vessel is (1) of a structure suitable for its employment, (2) is equipped with proper lifesaving and fire-protection appliances, (3) has suitable accommodations for passengers and crew, and (4) may be navigated safely as a passenger-carrying vessel. Existing laws prescribe inspection and safety regulations with respect to larger passenger vessels.

H. R. 7952 and H. R. 5570 would require the inspection and certification of vessels carrying more than 6 passengers, if such vessels are propelled by steam or by any form of mechanical or electrical power, are of 15 gross tons or less, or more than 15 and less than 100 gross tons and not more than 65 feet in length. Domestic vessels operating in the navigable waters of the United States or on the high seas outside those waters, and foreign vessels departing from the United States would be included in the term "mechanically propelled vessels." Public vessels of the United States or of a foreign state, motor-propelled lifeboats, and sailboats would be excepted.

The Department recommends enactment of H. R. 8267 rather than H. R. 7952 or H. R. 5570 in order to require passenger-carrying vessels propelled by sail to be inspected.

H. R. 8267 would also amend section 404 of 46 United States Code which deals with ferryboats, canalboats, yachts or other small craft, propelled by steam, to provide that vessels of above 15 gross tons carrying freight for hire, and vessels of above 15 gross tons and in

excess of 65 feet in length carrying passengers for hire, shall be subject to inspection and be navigated by a licensed engineer and a licensed pilot. At present this section includes only vessels of above 15 gross tons carrying freight or passengers for hire, but not engaged in fishing as a regular business.

Section 526 (f) of 46 United States Code (Motorboat Act of 1940) would be amended by adding a provision that no vessel of 15 gross tons or less propelled by machinery other than steam, and no vessel propelled primarily by sail, carrying passengers for hire shall be operated except in charge of a person licensed for such service.

The said Secretary is authorized to prescribe fees for inspection and licenses and to issue rules and regulations with respect to the construction, repair, and equipment of the vessels subject to the provisions of the act. Special provision is made for vessels carrying fishing parties.

Such a provision appears to be in accord with title V of the Independent Offices Appropriation Act, 1952 (65 Stat. 290; 5 U. S. C. 140). The Coast Guard does not at present impose fees for inspection and certification of vessels. Although to impose a fee for such services, in the absence of fees for comparable services to other classes of vessels than the vessels mentioned in the bill, appears to be discriminatory, we recommend this measure as a first step toward a general system of fees for vessel inspection by the Coast Guard in accordance with the above-mentioned policy of the Congress.

No vessel subject to the provisions of the act shall be operated until a certificate of inspection is issued showing compliance with the provisions of this act. The certificate may be suspended or revoked for noncompliance with the requirements of this act or the regulations established thereunder.

This Department supports the intent of H. R. 8267 as a measure to promote safety in marine transportation. Experience gained by the United States Coast Guard in investigating marine casualties indicates that the operation of uninspected vessels presents an unnecessary hazard to passengers for hire.

We understand that requiring inspection of vessels carrying more than 6 passengers (sec. 2 of bill) and the provision requiring inspection of vessels carrying passengers for hire (sec. 6 of bill) would involve inspection of somewhat more than twice as many vessels as would a provision requiring inspection of vessels carrying 12 or more passengers for hire. Your committee might wish to give consideration to whether the lessened burden on the Coast Guard and the operators would justify limiting the bill to vessels carrying 12 or more passengers for hire.

Subject to your consideration of these comments, we recommend favorable consideration of the bill. The policies of prescribing broad discretionary authority to the officer responsible for administering the law and granting a reasonable period of grace for shipowners to comply with the law are specifically endorsed.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this report to your committee.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

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CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

ACT OF JANUARY 18, 1897

(29 Stat. 489; 46 U. S. C. 520)

AN ACT Providing for certain requirements for vessels propelled by gas, fluid, naphtha, or electric motors

[That all vessels of above fifteen tons burden, carrying freight or passengers for hire, propelled by gas, fluid, naphtha, or electric motors, shall be, and are hereby, made subject to all the provisions of section forty-four hundred and twenty-six of the Revised Statutes of the United States, relating to the inspection of hulls and boilers and requiring engineers and pilots; and all vessels so propelled, without regard to tonnage or use, shall be subject to the provisions of section forty-four hundred and twelve of the Revised Statutes of the United States, relating to the regulation of steam vessels in passing each other; and to so much of sections forty-two hundred and thirty-three and forty-two hundred and thirty-four of the Revised Statutes, relating to lights, fog signals, steering, and sailing rules, as the Board of Supervising Inspectors shall, by their regulations, deem applicable and practicable for their safe navigation.]

SECTION 4426 OF THE REVISED STATUTES, AS AMENDED

(34 Stat. 193, U. S. C., 1952 ed., supp. 2, title 46, sec. 404)

4426. The hulls and boilers of every ferryboat, canal boat, yacht, or other small craft of like character propelled by steam, shall be inspected under the provisions of [Title 52 of the Revised Statutes.] *this title.* Such other provisions of law for the better security of life as may be applicable to such vessels shall, by the regulations of the [Commandant of the Coast Guard] *Secretary of the department in which the Coast Guard is operating,* also be required to be complied with before a certificate of inspection shall be granted, and no such vessel shall be navigated without a licensed engineer and a licensed pilot: *Provided,* [however,] That in open steam launches of ten gross tons and under, one person, if duly qualified, may serve in the double capacity of pilot and engineer. All vessels of above fifteen gross tons carrying freight [or passengers] for hire, *and all vessels of above fifteen gross tons and in excess of sixty-five feet in length carrying passengers for hire,* but not engaged in fishing as a regular business, propelled by gas, fluid, naphtha, or electric motors, shall be subject to all the provisions of this section relating to the inspection of hulls and boilers and requiring engineers and pilots, and for any violation of the provisions of title 52 of the Revised Statutes applicable to such vessels, or of rules or regulations lawfully established thereunder, and to the extent to which such provisions of law and regulations are so applicable, the said vessels, their masters, officers, and owners

shall be subject to the provisions of sections [494–498 of this title,] *4496, 4497, 4498, 4499, and 4500 of the Revised Statutes, as amended (46 U. S. C. 494–498)*, relating to the imposition and enforcement of penalties and the enforcement of law: *Provided, however,* That until June 30, 1956, no vessel registered or licensed as a vessel of the United States of fifteen gross tons or less on December 31, 1953, shall be deemed to be subject to the inspection provisions of this section notwithstanding the fact that such vessel may thereafter be found to have a tonnage in excess of fifteen gross tons, unless such finding results from an alteration in the length, breadth, or depth effected after December 31, 1953. [All vessels of fifteen gross tons or less propelled in whole or in part by gas, gasoline, petroleum, naphtha, fluid, or electricity, and carrying passengers for hire, shall carry one life preserver, of the sort prescribed by the regulations of the Commandant of the Coast Guard, for every passenger carried, and no such boat while so carrying passengers shall be operated or navigated except in charge of a person duly licensed for such service by the Coast Guard. No examination shall be required as a condition of the obtaining of such a license, and any such license shall be revoked or suspended by the Coast Guard for misconduct, gross negligence, recklessness in navigation, intemperance, or violation of law on the part of the holder, and if revoked, the person holding such license shall be incapable of obtaining another such license for one year from the date of revocation. (As amended August 31, 1954, ch. 1171, 68 Stat. 1047.)]

SECTION 7 OF THE ACT OF APRIL 25, 1940, AS AMENDED

(54 Stat. 165, U. S. C., 1952 ed., title 46, sec. 526f)

SEC. 7. No such motorboat, *and no other vessel of fifteen gross tons or less propelled by machinery other than steam,* while carrying passengers for hire, shall be operated or navigated except in charge of a person duly licensed for such service by the [Coast Guard.] *Secretary of the department in which the Coast Guard is operating.* Whenever any person applies to be licensed as operator of any motorboat, *or of any other vessel of fifteen gross tons or less propelled by machinery,* carrying passengers for hire, the [Coast Guard] *Secretary* shall make diligent inquiry as to his character, and shall carefully examine the applicant orally as well as the proofs which he presents in support of his claim, and if [it] *the Secretary* is satisfied that his capacity, experience, habits of [life] *living,* and character are such [as] to warrant the belief that he can safely be entrusted with the duties and responsibilities of the station for which he makes application, [it] *the Secretary* shall grant him a license authorizing him to discharge such duties on any such motorboat, *or on any other vessel of fifteen gross tons or less propelled by machinery,* carrying passengers for hire, for the term of five years. Such license shall be subject to suspension or revocation on the same grounds and in the same manner [and] with like procedure as is provided in the case of suspension or revocation of licenses of officers under the provisions of section [239] *4450* of [this title] *the Revised Statutes,* as amended (U. S. C. 1952 edition, title 46, sec. 239): *Provided,* That motorboats *and other*

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vessels of fifteen gross tons or less propelled by machinery shall not be required to carry licensed officers except as required in this [subchapter] *Act: And provided further,* That licenses herein prescribed shall not be required of motorboats *or of any other vessels of fifteen gross tons or less propelled by machinery* engaged in fishing contests previously arranged and announced.

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